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THE REMINISCENCES OF

SIR HENRY HAWKINS

BARON BRAMPTON

Photo by Elliott & Fry

Sir Henry Hawkins and "Jack."

LONDON: EDWARD ARNOLD 1904

THE REMINISCENCES

OF

SIR HENRY HAWKINS

BARON BRAMPTON

EDITED BY

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WITH PORTRAITS

IN TWO VOLUMES

VOL. II.

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LONDON

EDWARD ARNOLD

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THE REMINISCENCES OF
SIR HENRY HAWKINS
(NOW LORD BRAMPTON)

CHAPTER XXXVII

A VISIT TO SHEFFIELD—MRS. HARLSTONE'S DANISH BOARHOUND

THE remembrance of my Sessions days will never vanish from my mind, although at the period of which I am speaking they had long receded into the distant past. Even *Nisi Prius* was diminishing in importance, although increasing in its business and fees.

Solicitors no longer condescended to deliver their briefs, but competed for my services. I say this without the smallest vanity, and only because it was the fact, and a great fact in my life. I was wanted to win causes by advocacy or compromise; and the innumerable compensation cases which continually came in with so steady and so full a tide were a sufficient proof that, at all events, the solicitors and others thought my services worth having. So did my clerk!

Those were the days of the golden harvest, the very gleanings of which were valuable to those who came after.

Lloyd must have made £20,000 a year with the greatest ease; what I made is of no consequence.

Of course it was a step for me from the humble '*one three six*'; but I have had a more lively satisfaction from that little sum than from many a larger fee.

In the midst of all this rush of London business I still found time to run down to country places in cases of election petitions or compensation.

One day I found myself on my way to Sheffield to support the member against an attack to deprive him of his seat in Parliament. I went with the Hon. Sir Chandos Leigh, my distinguished junior on that memorable occasion.

The journey was pleasant until we got near the end of it, and then the smoke rolled over and around in voluminous dense clouds, for a description of which you may search in vain through 'Paradise Lost.' We were met at the station with great state, and even splendour, and treated with almost boundless hospitality.

To keep up our spirits, we were taken for a drive by the sitting member a few miles out, into what they call 'the country' in those parts. The suburban residence was situated in a well-wooded park, if that can be called well-wooded where there are no woods, but only stunted undergrowths sickening with the baleful fumes that proceed from the city of darkness in the distance, and black with the soot of a thousand chimneys. The sitting member apologized politely enough for bringing us to this almost uninhabitable and Heaven-forsaken region; but I begged him not to mind; it was only a more blasted scene than the heath in 'Macbeth.'

'Yes,' said he, still apologetically; 'it *is* very bad

I admit. You see it's the fumes and fires from those manufactories; they make such havoc of our woods.'

This was apparent, but the question was how to pass the time amidst this gloom and sickening atmosphere.

I found his residence, however, to my great joy, was farther than I expected from the appalling city of darkness, and hope began to revive both in my junior's heart and mine.

Our friend and host, seeing our spirits thus elated, began to talk with more life-like animation.

'The fumes from the factories, Mr. Hawkins, have so played the devil with our trees that the general impoverishment of nature has earned for the locality of Sheffield the unpleasant title of the "Suburbs of Hell."'

'I don't wonder,' I answered; 'no name could be more appropriate or better deserved, and if it were my fate to choose my locality I should prefer to live in *the city itself*.'

A curious incident happened to us during this Sheffield visit. An excursion was arranged to see Warburton's, which was situated some few miles off. It was a notable place for many oddities.

We were driven over, and when we arrived were by no means disappointed by the singularities of the mansion. It was enclosed within a high wall, which had been built not for the purpose, as you might suppose, of preventing the house from getting away, but for that of keeping out rats and foxes; for there were birds to be preserved from these destructive animals. Next, this portion of the estate was surrounded by water, which afforded an additional security to its

isolation, access to the island being attainable only by means of a bridge.

The mansion was occupied by a Mrs. Harlstone, whose duty it was to show visitors over the house and explain everything as she went along, ghost stories as well; and being a remarkably affable lady with a great gift of language, we had a very intelligent and edifying lecture in every room we passed through, now upon ornithology, now chronology, next on pisciculture and the habits of stuffed pike and other fish. But this was not all. Our guide was wonderfully well read in architecture, and displayed no end of knowledge in pointing out the different orders and sub-orders, periods of, and blendings of the same, so that we were quite ready for lunch as soon as that period should mercifully arrive.

But it was not exactly yet. There were many other curiosities to be shown. For instance, we had not done the Warburton Library, which was a most singular apartment, as we were informed, I don't know how many stories high, at the top of a very singular tower, with as many languages in it as the Tower of Babel itself, and very nearly as high. One only wished the whole thing would topple down before we could come to it.

At last, however, we climbed to this lofty eminence and revelled as well as we could amongst the musty old books, which themselves revelled in the dust of ages.

Having seen all the shelves and the backs of the books, and heard all the accounts of them without receiving any information, we commenced our descent by means of the winding staircase towards the garden. On our way a curious circumstance took place. There

was an enormously great Danish boarhound, which had, unperceived by us, followed Mrs. Harlstone from the library; it pushed by without ceremony, and proceeded until it reached the lady, who was some distance in advance. He then carefully took the skirt of her dress with his mouth and carried it like an accomplished train-bearer until she reached the bottom of the stairs and the garden, when he let go the dress and gazed as an interested spectator. We were now in the midst of a very beautiful and well-kept garden, with a lawn like velvet stretching far away to the lake, where ultimately we should have to wait for a boat to ferry us along its placid water. This was part of our entertainment, and a very beautiful part it was.

But before we parted from Mrs. Harlstone, and while I was talking to her, I felt my hand in the boarhound's mouth, and a pretty capacious mouth it was, for I seemed to touch nothing but his formidable fangs.

It was not a pleasant experience, but I preserved sufficient presence of mind to make no demonstration. Dogs know well enough when a man or woman loves their kind, and I am sure this one was no exception, or he would never have behaved with such gentlemanly politeness. So soft was the touch of his fangs that I was only just conscious my hand was in his mouth by now and then the gentlest reminder. I knew animals too well to attempt to withdraw it, and so preserved a calm more wonderful than I could have given myself credit for.

While I was wondering what the next proceeding might be, Mrs. Harlstone begged me to be quite easy, and on no account to show any opposition to the dog's

proceedings, in which case she promised that he would lead me gently to the other side of the lawn, and there leave me without doing the least harm.

All this was said with such cool indifference that I wondered whether it was a part of the day's programme, and rather supposed it was; but it turned out that she said it to reassure me and prevent mischief. I also learned that it was not by any means the first occasion when this business had taken place. It was the first time in my life that I had been in custody, and if I had had my choice I should have preferred a pair of handcuffs without teeth.

As I was being led away Mrs. Harlstone said:

'Do exactly as he wishes; he is jealous of your talking to me, and leads anyone away who does so to the other side of the garden.'

Having conducted me to the remotest spot he could find, he opened his huge jaws and released my hand, wagged his tail, and trotted off, much pleased with his performance. He returned to his mistress and put his large paws on her arms—a striking proof, I thought, of the dog's sagacity.

There will be in this history some stories of my famous 'Jack,' but as he belonged to me after I became a Judge, they are deferred until that period arrives. The reminiscences of Jack are amongst my dearest and most pleasant recollections.

The changeful nature of popular clamour was never more manifested than on this visit.

Orton had been convicted and sentenced to penal servitude, but to deprive a man of his title and estate because he was a butcher's son did not coincide with the wishes of a generous democracy who lingered round

the Sheffield court, where the fate of their sitting member was to be tried. They believed in their member, and, not knowing on which side I was retained, when I went along the corridor into the court they '*yah! yah'd*' at me with lungs that would have been strong enough to set their furnaces going or blow them out. 'Where's Roger?' they inquired eagerly.

It would have been easy to answer that question if it had been dignified, or even safe to do so; but I passed on, thinking it might be as well if some of the howling ruffians were keeping their hero company.

After the petition was tried, and I had been successful, they changed their minds and their language. This same British public, which not long before had yah! yah'd at me, now came forward with the true British hoorays and bravos and 'Bravo, Orkins!' Their applause was unbounded, and was quite a change from their daily yelling of 'Cauliflowers!' and 'Yarmouth bloaters!' through the streets of the Suburbs of Hell.

As we came along, with the crowd of professional supporters of the Member of Parliament and the witnesses, vociferous were the plaudits: 'Orkins for ever!' 'Hooray for Orkins!' 'Bravo, Orkins!' 'Bravo, Wagga Wagga!' 'Hooray for Wagga Wagga! Hooray! a —— hooray!'

This last cry had reference to a village in Australia where the great Tichborne fraud had its origin; where the first advertisement of the dowager seeking her lost son was shown to the butcher in his own little shop, the son of the respectable butcher of Wapping.

The number of people who professed to believe in the

Claimant long after he was sent to penal servitude was prodigious, although not one of them could have given a reason for his faith, or pointed to a particle of unimpeachable evidence to support his opinion. It had never been anything other than feeling in the dark for what never existed.

CHAPTER XXXVIII

THE STORY OF ROUPELL

A VERY singular story was told at Guildford, that town of matchless tales, when I was a young man at the Bar; and being a remarkable reminiscence, I ought not to omit it, especially as it takes me back once more and for the last time amongst my old and familiar friends.

This was the story:

Richard Palmer Roupell was a wealthy tradesman of Lambeth, who died on September 12, 1856.

He had a great deal of freehold property, and an estate called Norbiton Park Farm, consisting of about 163 acres. There were other farms in Essex and elsewhere, not necessary to describe.

The testator, Richard Palmer Roupell, had an illegitimate son named William. To him the father had left nothing. But he had a legitimate son, Richard, to whom everything was devised.

Some years before his death, namely in 1850, another will had been made, giving, as far as I remember, some property for the benefit of his wife, and at the same time devising the remainder of his real estate to his son Richard.

When the old man died, William showed his affec-

tion for him by going to the room where he lay dead and breaking open an escritoire in which the will was kept. There also was found a deed of gift dated 1850. Still, there was nothing for William—no trace of any token of remembrance from the old man, who lay there unconscious of his offspring's careful investigation of his affairs.

But presently, finding that neither will nor deed of gift gave *him* anything, he thought it was time he took matters into his own hands, and appropriated both the will and deed of gift.

That was something, but not much, for these deeds were evidence that the property did not belong to him, and therefore a little rectification was necessary in both the instruments.

This rectification consisted in forging a fresh will, devising to himself the whole of the old man's property, and, of course, cutting Richard off without so much as the usual shilling. I say the will left him sole devisee, but I mean after he had forged a new deed of gift, which gave him the estates other than those he took by will. It was a good idea to preserve the deed of gift in this manner, because if the will should be discovered to be of doubtful origin, like himself, the deed of gift, being older by ten years, might still be thought to be genuine, the more especially as he would take nothing under the genuine will, if a copy of it should be discovered.

Under one or other of these documents he sold and otherwise conveyed some of the property and enjoyed the proceeds. He was able by these means to live like a gentleman of family, keep up a splendid establishment, and go into society, where he was re-

ceived as one of its charming lions. He knew 'the best people,' opened their bazaars, headed their charities, went to their balls, took the chair at dinners, made long speeches, got into Parliament for Lambeth, and then into the dock for what he did there.

Having sold a good deal of the property in this way, there arose a question, instigated by the advisers of Richard—and no wonder—as to the genuineness of the documents under which the property was conveyed. To test this question two actions of ejectment were brought at Guildford to turn out the purchasers under these deeds.

The Norbiton Park Farm came before Baron Martin; the Essex property was tried before Baron Channell in the following year at Chelmsford.

Practically, Richard Roupell was the plaintiff. Mr. Serjeant Shee and Mr. Lush were counsel for Richard; Mr. Bovill, Q.C., and myself were for those who rested on the title of William Roupell.

It fell, of course, upon Shee to prove the allegation that the deed of gift and the will were forgeries. To do this he boldly put William Roupell into the box to prove that he was a forger. Society would have been quite staggered, only that it is so accustomed to these shocks that they have come to be almost a matter of course.

William confessed all I have stated, with all the details, and gave so circumstantial an account of the transaction that Bovill could not shake him in cross-examination.

We, however, came to a settlement of the action. Much had been done on the property since the sale, and it was pretty hard on those who had laid out

their money in improvements. So it was arranged that the title of those who took under William was abandoned. The will tendered in evidence to prove their title was found to be forged, and the claim of Richard under the original will and deed was held to be good.

Afterwards William was tried at the Old Bailey for forgery, convicted on his own confession, and sentenced to penal servitude for a great number of years.

The action relating to the Essex property was tried at Essex Assizes before Baron Channell in July, 1863, and although it occupied several days, did not substantially differ from the former trial.

In that case also William Roupell confessed his forgery and fraud. Although the jury did not agree on all the points left to them, the result was a settlement which did not, of course, affect the fact of the forgeries having been committed.

Shee was an elegant speaker, and very powerfully stated any case of importance in which he was engaged and in which he had confidence. Without confidence his power was not so manifest. His opening in the Roupell case was strong and graphic, sometimes pathetic. I remember even at this moment the effect he produced when he came to deal with the robbery of the deed and the will from the escritoire, where they had been for so many years; it was very imposing.

He thus described the act of opening this ancient place of deposit. It was in a manner and tone to me most impressive: 'And there he stood face to face with his dead father!'

The words were uttered in a simplicity and naturalness of tone which very few of our best actors could have imitated, and they made an impression on me which has lasted to the present hour.

I can see him at this moment, and recall the tone of his voice, his look, and the impression it made. It was soon lessened, however; dramatic effect lasts but a moment. Other circumstances and events were brought forward; the tide of eloquence rolled on, and new facts were constantly introduced.

Later in the afternoon I was leaving for Maidstone, where the court was overdue, and as I knew my friend Lush could not possibly leave so important a case, I scribbled a little note and flung it to him across the table. It was merely to ask him if I could do anything by way of assisting him with his briefs at that town. My note, I remember very well, was in these words—after quoting Shee's memorable passage:

> 'I leave him with his father dead
> *Still looking in his face;*
> For I must go and earn my bread
> In quite a different place!'

I knew then, as I know now, that it was wrong; it was doing the worst you can do with a great thought or a great performance—it was *parodying* it; but it was a *circuit exuberance,* and Lush laughed very heartily. Shee heard him laugh, and asked what the subject of so much merriment was. Lush excused himself, for he was not a laughing man, and hoped he might be forgiven by handing to Shee my little epistle. Shee frowned, lowered the corners of his mouth, and looked like the giant who swore he smelt the blood of an Englishman; then, forgetful of

his own eloquence, laughed too, and gave me a look which I never forgot. I was soon off to Maidstone, where I told the little incident at the circuit mess, nothing doubting that I had done a great thing. However, seriously speaking, I shall not forget the feeling and the impression created by that speech. On another occasion soon after he distinguished himself again by the most touching tenderness in a case which aroused the deepest sympathy as well as horror.

I pay this parting tribute to the memory of an old and kind-hearted friend, as full of feeling himself as he was eloquent in rousing it in others. He was an honour to the Bar, and if eloquence could live he would need no monument.

To take another old friend, Bovill. Although he was a good commercial lawyer, he was certainly never a humorist. The two sometimes go together, but they did not meet in him. He was a business lawyer with no poetry. I know that he was delighted with the notoriety of the Tichborne case; but although it was so full of humour from beginning to end, I don't remember a single humorous allusion of Bovill's; while so earnest was he to try it in a manner befitting its importance, that I have always believed the mental anxiety he underwent tended to shorten his days. He was an honest advocate, and a good fellow.

CHAPTER XXXIX

AN EXPERT IN HANDWRITING

I ALWAYS took great interest in the class of expert who professed to identify handwriting. Experts of all classes give evidence only as to opinion; nevertheless, those who decide upon handwriting believe in their infallibility. Cross-examination can never shake their confidence. Some will pin their faith even to the crossing of a T, 'the perpendicularity, my lord,' of a downstroke, or the 'obliquity' of an upstroke.

Mr. Nethercliffe, one of the greatest in his profession, and a thorough believer in all he said, had been often cross-examined by me, and we understood each other very well. I sometimes indulged in a little chaff at his expense; indeed, I generally had a little 'fling' at him when he was in the box.

It is remarkable that, at the time I speak of, Judges, as a rule, had wonderful confidence in this class of expert, and never seemed to think of forming any opinion of their own. A witness swore to certain peculiarities, the Judge looked at them and at once saw them, too often without considering that peculiarities are exactly the things that forgers imitate.

'You find the same peculiarity here, my lord, and

the same peculiarity there, my lord; consequently, I say it is the same handwriting.'

In days long gone by the eminent expert in this science had a great reputation. As I often met him, I knew his peculiarities, and how annoyed he was if the correctness of his opinion was in the least doubted.

He had a son of whom he was deservedly proud, and he and his son, in cases of importance, were often employed on opposite sides to support or deny the genuineness of a questioned handwriting. On one occasion, in the Queen's Bench, a libel was charged against a defendant which he positively denied ever to have written.

I appeared for the defendant, and Mr. Nethercliffe was called as a witness for the plaintiff.

When I rose to cross-examine I handed to the expert six slips of paper, each of which was written in a different kind of handwriting. Nethercliffe took out his large pair of spectacles, magnifiers, which he always carried. Then he began to polish them with a great deal of care, saying, as he performed that operation:

'I see, Mr. Hawkins, what you are going to try to do—you want to put me in a hole.'

'I do, Mr. Nethercliffe; and if you are ready for the hole, tell me—were those six pieces of paper written by one hand at about the same time?'

He examined them carefully, and after a considerable time answered:

'No; they were written at different times and by different hands!'.

'By different persons, do you say?'

'Yes, certainly!'

'Now, Mr. Nethercliffe, you are in the hole! I wrote them myself this morning at this desk.'

He was a good deal disconcerted, not to say very angry, and I then began to ask him about his son.

'You educated your son to your own profession, I believe, Mr. Nethercliffe?'

'I did, sir; I hope there was no harm in that, Mr. Hawkins.'

'Not in the least; it is a lucrative profession. Was he a diligent student?'

'He was.'

'And became as good an expert as his father, I hope?'

'Even better, I should say, if possible.'

'I think you profess to be infallible, do you not?'

'That is true, Mr. Hawkins, though I say it.'

'And your son, who, as you say, is even better than yourself, is he as infallible as you?'

'Certainly, as he ought to be. Why not?'

Then I put this question: 'Have you and your son been sometimes employed on opposite sides in a case?'

'That is hardly a fair question, Mr. Hawkins.'

'Let me give you an instance: In Lady D——'s case, which has recently been tried, did not your son swear one way and you another?'

He did not deny it, whereupon I added: 'It seems strange that two infallibles should contradict one another?'

The case was at an end.

Speaking of evidence generally, and truth and falsehood in particular, and how near akin they sometimes are, I have two little stories illustrative of the strange ideas some persons entertain on these matters.

One evening, after a good hard day's work, I was

sitting in my easy-chair after dinner, comfortably enjoying myself, when a man, who was quite a respectable working man, came in. I had known him for a considerable time.

'What's the matter, Jenkins?' I inquired, seeing he was somewhat troubled.

'Well, Mr. Hawkins, it's a terrible job, this 'ere. I wants you to appear for me.'

'Where?' I inquired.

'At Bow Street, Mr. Hawkins.'

'Bow Street! What have you been doing, Jenkins?'

'Why, nothing, sir; but it's a put-up job. You knows my James, I dessay. Well, sir, that there boy, my son James, have been brought up, I might say, on the Church Catechism.'

'There's not much in that,' I said—meaning nothing they could take him to Bow Street for. 'Is that the charge against him?'

'No, sir; but from a babby, sir, his poor mother have brought that there boy up to speak the truth, the whole truth, and nothing but the truth. And it's a curious thing, Mr. Hawkins—a very curious thing, sir—that arter all his poor mother's care, and James's desire to speak the truth, they've gone and charged that there boy with perjury! "At all times," says his mother, "James, speak the truth, the whole truth, and nothing but the truth"; and this is what it's come to—would anybody believe it, sir? *Could* anybody believe it? It's enough to make anybody disbelieve in Christianity; and what's more, sir, that there boy was so eager at all times to tell the whole truth that, to make quite sure he told it all, he'd go a little beyond on the other side, sir—he would, indeed.'

When he heard my fee was a hundred guineas to appear at the police court, I heard no more of truthful James.

The other instance was one that Charles Pollock told me. He was junior counsel in a case where his solicitor, an old gentleman, highly respectable, but of a desultory and fugitive practice, went into the box as witness.

Chief Baron Pollock was the Judge, and having known Cyrus's father a great many years ago as a Dissenting preacher in a provincial town, he looked at the old man in the box with a kind of awakening curiosity, as though he were asking himself, 'Can it be —is it possible?'

'Why,' he exclaimed at last, 'you are never the son of my old friend Cyrus, whose ministry I sat under for so many years at ——, are you?'

'The very same, my lord,' said Cyrus.

It was well known Pollock had a remarkable eye for faces. 'Dear me, it's wonderful!' he muttered; 'the old man whose friendship I valued so much.'

'The very same, my lord,' said old Cyrus.

The witness was too overcome to say more, and both he and the Judge looked at one another in mutual and silent admiration.

The Chief Baron added a few more complimentary words, and then proceeded to take the evidence. The case was such that Cyrus had scarcely a hope of winning it; hence it was that he was in the witness-box. His evidence, however, seemed to turn the scale, for, although not without considerable doubt, as the Judge said, he decided in his favour.

'I thought,' said Cyrus to the younger Pollock,

'when your dear old father said such kind words to me, I could have sworn almost anything.'

In dealing with a case where there is really no substantial defence, it is sometimes necessary to throw a little ridicule over the proceedings, taking care, first, to see what is the humour of the jury.

This must be ascertained by trying the experiment of hazarding a sentence or two which may be taken either as serious or jocular, and adding at the close of it the point to which it is intended seriously to be applied.

I remember trying this with great success, and reducing a verdict which might have been considerable to a comparatively trifling amount. The eloquence of the plaintiff's counsel was almost grotesque. Indignation poured forth, only to be damped by reducing the matter to a common-sense level. A question had been asked by me: 'Who's Mr. ——?' The name was suggestive, by the tone in which it was spoken, of nefarious dealing, and certainly was calculated to hold up the plaintiff to ridicule and contempt. Now, the plaintiff was a most honourable man, and known as such by all who had ever come in contact with him.

The tone his counsel assumed was serious, and made my case look so. It was now my duty to minimize the affront, so when I addressed the jury, I began by imitating the tone of my learned friend, repeating the words which were merely interrogatively used, and asking the jury: 'Gentlemen, if I asked anyone "Who's Brown?" would that be, or could it be construed to be an offence? I should expect anyone who knew him would say: "Oh yes, Mr. Hawkins, I know him

well; he is a very clever pleader, who does his best for his clients;" but, of course, we all do that without the slightest feeling against one another.' The jury laughed, and therefore I knew that the element of humour had introduced itself into the case. I was now on safe ground and could proceed.

At that moment, as luck would have it, old J. O. Griffiths, a prim, respectable, heavy junior, came in and stood at the end of the counsels' seats. He was well known to everybody, and loved by all. If I could express the great charm of the man in words, it would be 'spick and span' with a pleasant smile.

Well, there stood 'J. O.' looking the pink of perfection and respectability, and amused at the scene.

Suddenly the happy thought came to me to say: 'Gentlemen, suppose I asked "Who's Griffiths?"'

There was a roar of laughter, and J. O. enjoyed it as much as any. This question, I need hardly say, was merely the question asked all over London and in the provincial towns by means of huge posters having reference to safes which were supposed to preserve all things entrusted to them from fire. And the answer was—Griffiths being the inventor of safes —'The safe man!'

The verdict was reduced by this little incident to a nominal sum.*

* Strange to say, Mr. Cecil A. Coward wrote a little fuller account of this incident: 'Do not forget to tell the story of a slander action tried at the Guildhall many years ago, in which Mr. Hawkins, Q.C., was for the defendant, and Mr. Joseph Brown, Q.C., for the plaintiff. The slander consisted mainly in the defendant pointing his thumb over his shoulder and asking another man, "Do you know him? That's Joe Smith."

'Mr. Joseph Brown, Q.C., had to rely upon his innuendo—"meaning thereby Joe Smith was a rogue"—and was very eloquent as to slander unspoken but expressed by signs and tone. After an exhausting speech he sat down and buried his head in his bandana, as his habit was.

'Hawkins got up, and turned Mr. Joseph Brown's speech to ridicule in two or three sentences.

'"Gentlemen," he almost whispered, after a very small whistle which nobody could hear but those close around, at the same time pointing his thumb over his shoulder at his opponent, "do you know him—do you know Joe Brown?" There was a roar of laughter. Joe looked up, saw nothing, and retired again into his bandana.

'Again the performance was gone through. "Do you know Joe Brown, the best fellow in the world?"

'Brown looked up again, and was just in time to hear the jury say they had heard quite enough of the case. No slander; —verdict for the defendant.

'It was one of the best pieces of acting I ever saw him do.'

This part was naturally omitted by Lord Brampton, but I think it right to insert it.—R. H.

CHAPTER XL

'BARON' OR 'JUSTICE' HAWKINS?

I NEED scarcely say that the Tichborne case was a great professional loss while it lasted; for the greater part of two years I could do little else; but no sooner was it finished than I was once more in the full run of work.

One brief was delivered with a fee marked twenty thousand guineas, which I declined. It would not in any way have answered my purpose to accept it. I was asked, however, to name my own fee, with the assurance that whatever I named it would be forthcoming. I said I would consider a fee of fifty thousand guineas, and I did so; but resolved not to accept the brief on any terms, as it involved my going to India, and I felt it would be unwise to do so.

What my income was at the Bar is of no interest to anyone; suffice it to say that no expectations of mine ever came up to its amount, and even now when I look back it seems absolutely fabulous. I will say no more, notwithstanding the curiosity it has excited amongst the members of the profession.

In 1874 I was offered by Lord Cairns the honour of a judgeship, which I respectfully declined. It was no hope of mine to step into a puisne judgeship, or, for

the matter of that, any other judicial position. I was contented with my work and with my career. I did not wish to abandon my position at the Bar and my friends at the Bar and take up one on the Bench with no friends at all: for a Judge's position is one of almost isolation. This refusal gave great dissatisfaction to many, and a letter I have before me says, 'I got into a great row with my editor by your refusal.' Another said he lost a lot of money in consequence: 'I thought it was any odds upon your taking it.'

Sir Alexander Cockburn gave me a complimentary side-cut in a speech he made to some of his old constituents.

'The time comes,' said he, 'when men of the greatest eminence are called upon to give up their professional emoluments for the interests of their country. In my opinion, they have no right to refuse their services; no man has this right when his country calls for them.'

But these animadversions did not affect me. I held on to the course which I had deliberately chosen, and which I thought my labours and sacrifices in the Tichborne case on behalf of my country entitled me to enjoy. Let anyone who has the least knowledge of advocacy consider what it was to carry that case to a successful issue, and then condemn me for not taking a judgeship if he will. I was entitled to freedom and rest. A judgeship is neither, as one finds out when once he puts on the ermine. But it requires no argument to justify the course I took. I was entitled to decline, and I did. There is nothing else to be said; all other considerations are idle and irrelevant.

As for Cockburn, he wanted me on the Bench, and when I was there probably sometimes wished I was

away. He was at all times difficult to please, and very seldom pleasant; he was extremely crotchety, irritable, and what was perhaps his greatest weakness, vain. He was a beautiful speaker, but his vanity spoilt even his oratory. He was a first-rate cross-examiner—one of the few, the very few, I have known; but he always let it be seen that he thought so himself. He was a great cross-examiner, not because he always perceived the right points, but because he never made a mistake in arriving at them. A cross-examiner cannot be first-rate who makes mistakes in that art, for the art is gone when mistakes appear. At all events, such is my opinion. Cross-examination is a performance that will not tolerate mistakes.

A judgeship was a second time offered to me by Lord Cairns in 1876. This, after due consideration, I accepted, and received my appointment as a Judge of the Exchequer Court on November 2 of that year.

But now difficulties, or rather unpleasantnesses, arose as to the title I should assume. My opinions were shared by the highest judicial authorities of the land, and a crisis had occurred in the history of the Bench such as had not taken place for seven hundred years.

Up to this time there had been three Courts of Common Law, each with its respective chief, and all with co-ordinate authority. None was before or after other.

Suddenly a great law reformer appeared, who almost reformed justice off the Bench, when the Chancery Judges, who had never had any experience in the criminal courts, were sent to try cases of crime. The blunders and the miscarriages of justice which they produced are amongst the jokes of the Common Law

Bar, and the youngest juniors are familiar with many a good story which was the result of their incompetence.

This great reformer abolished the threefold jurisdiction of the courts, as well as two of the chiefs—namely, the Chief Baron of the Exchequer and the Chief Justice of the Common Pleas—concentrating them all into the unity of the Chief Justice of England.

As I wish to say as little as possible about the matter in these reminiscences, I will give the reader some extracts from the letters of Chief Baron Kelly and Lord Chancellor Cairns on this subject.

A letter of March 21, 1877, from Chief Baron Kelly to the Lord Chancellor says:

'I feel it my duty to address you on a subject which may seem of little importance, but is of deep interest to us of the Exchequer. Upon your appointment of Sir Henry Hawkins to be a Judge of the Exchequer (and an excellent Judge he makes), he was addressed by us all and by the Secretaries of State, and among others by your own secretary, as "Baron" Hawkins, when a few days later, upon his being presented to Her Majesty to receive the honour of knighthood, it appeared in the *Court Circular* that it was by misadventure that he had been called "Baron" instead of Mr. Justice Hawkins. Of course, in all loyalty and dutiful obedience to the Queen, who is supposed herself to see and to sanction that organ of information, so welcome, in general, to Her Majesty's subjects, we have ceased from that day to call him Baron Hawkins. But permit me now, having the high honour to be Her Majesty's Chief Baron of her Exchequer, to represent to you, and, should it become

necessary, to pray of your lordship humbly to represent to Her Majesty that the title of Baron of the Exchequer—I believe the most ancient attached to any office under the Crown except your own—has been uniformly borne by the puisne or junior Judges of the Exchequer for nearly 700 years, and has numbered among its possessors many loyal and devoted subjects of the Kings and Queens of England, renowned for learning and high ability, and some of them of noble and some of royal descent.

'Why, then, take away from them, without wrong done or fault committed, and, I venture to think, without the slightest ground of political expediency, or even convenience, this ancient and honoured title; and further, lead the world to call them "Mr. Justice," an appellation to which they are no more entitled than I to call myself Lord Chief Justice?'

Here the learned Chief Baron argues upon the several clauses of the Statute of 1873 in support of his views, and in one of his arguments says:

'Sir Henry Hawkins assumed the appellation of Baron Hawkins upon becoming a puisne Judge of the Exchequer.' He concludes his very long letter in these words: 'My lord, we look to you as the head and the protector of all of the profession of the law, and we hope that you will not fail to help us in this emergency. I am, I believe, the oldest member of the profession of the law now living and yet in Her Majesty's service, and I hope it will not be my misfortune to see the great and ancient court over which I have been graciously called to preside despoiled of one of its most valued and honoured appendages, and,

as it may be, myself reduced to the solitary and vain condition of a Lord Chief Baron without any Barons of whom I am the chief.

'I am, my dear Lord Chancellor,

'Very faithfully yours,

(Signed) 'FITZROY KELLY.'

Lord Cairns wrote the following reply:

'HOUSE OF LORDS,

'*March* 22, 1877.

'MY DEAR CHIEF BARON,

'The question of the title to be borne by the Judges of the High Court is not, I am afraid, a matter any longer in the power of Her Majesty; much less can it be affected by anything that I may think or do. It stands regulated by Act of Parliament—namely, by the Judicature Act, 1873. Of the construction of that Act I need not say that you are as completely a judge as I am, but I will tell you the interpretation which I have always placed, and which I understand everyone else has placed, upon it. The Act continues the titles of the two Lords Chief Justice and the Lord Chief Baron, but it continues them expressly as titular dignities, and it provides that even as to them they may be altered by Order in Council upon any vacancy. It continues the status, style, and title of all Judges in existence at the passing of the Act, but beyond this it creates an uniform, homogeneous class of ordinary Judges of the High Court. They are to be styled Judges of the High Courts in their patents of appointment.

'The style of Vice-Chancellor is done away with and so is the style of Judge of the Admiralty Court,

and I certainly am under the impression that in like manner the style of Baron of the Exchequer is, as to future appointments, done away with also. In fact, all Judges appointed after the Act, though in the first instance they take the place of the Judge in whose room they are appointed, are liable to be moved from one division to another by sign-manual.

'With regard to the style of "Justice," I presume that it has been adopted by the newly-appointed Judges as a synonym for the style of "Judge," as more appropriate than Judge to be used in connection with "Mr." They consider, I suppose, that all the Judges of the High Court are Justices of the High Court, and very probably this is a correct view. I don't myself see how, without repealing the Act of Parliament, the destinctive style of "the Barons of the Exchequer" can be revived. Believe me very faithfully yours,

(Signed) 'CAIRNS.

'The Rt. Hon. The Lord Chief Baron Kelly.'

On March 26, 1877, while staying in Paris, the Lord Chief Baron wrote to me a long letter, in which he advises me to do nothing about the title 'till we meet, except, indeed, that you should make people (as I do), especially reporters, call you Sir H. H., and not Mr. Justice. Unless you prefer to acquiesce, I'll fight to the last, especially as I've other accounts to settle with the Chancellor and the Government. . . . You've plenty of time, for the next levee is the 7th May, exactly fifty-three years since I was called to the Bar.

'Ever yours,

'(Signed) FITZROY KELLY.'

Such was the story of my refusal to be called Mr. Justice Hawkins, preferring the title Her Gracious Majesty conferred on me to that which the Judges had conferred on themselves.*

[There was probably some little feeling against a title which Shakespeare has made ridiculous.]

* A learned friend thus describes Sir Henry Hawkins as he took his seat on the Bench:

'A spotless collar and cuffs; wig as white as snow; face and features as fine as Chantry's best chisel could carve them.' —R. H.

CHAPTER XLI

MY FIRST TRIAL FOR MURDER

THE first and most sensational case that I was called upon to preside over was known as the Penge case. Sir Alexander Cockburn had appointed himself to try it, on account of its sensational character; but as it came for trial at a time when the Lord Chief Justice could not attend, it fell to the junior Judge on the Bench.

I am not going to relate the details of that extraordinary case,* which are best left in the obscurity of the newspaper files; but I refer to it because it cannot well be passed over in the reminiscences of my life. I shall, however, only touch upon one or two prominent points.

* The great sensation of the case was almost overpowered by the great sensation that 'a new power had come upon the Bench.' These are, as nearly as I can give them, the words of one of our most distinguished advocates, and one of the most brilliant who was in the Penge case:

'We felt, and the Bar felt, that a great power had come upon the Bench; he summed up that case as no living man could have done: every word told; every point was touched upon and made so clear that it was impossible not to see it.'

Another distinguished advocate said there was no other Judge on the Bench who could have summed that case up as Sir Henry Hawkins did.—R. H.

'Every person,' I said in my summing up, 'who is under a legal duty, whether such duty was imposed by law or contract, of taking charge of another person must provide that person with the necessaries of life. Every person who had that legal duty imposed upon him was criminally responsible if he culpably neglected that duty and the death of the person for whom he ought to provide ensued. If the death was the result of mere carelessness and without criminal intent, the offence would be manslaughter, provided the jury came to the conclusion that there had been culpable neglect of the duty cast upon the individual who had undertaken to perform it.'

With regard to the evidence of one of the witnesses who was said to be an accomplice, so that it was necessary that she should be corroborated, I said a jury might convict without it, but recommended them strongly not to take for granted her evidence unless they found there was so much corroboration of her testimony as to induce them to believe she was telling the truth.

As to one of the accused, I said: 'If she had no legal object to fulfil in providing the deceased with the necessaries of life, the mere omission to do so would not render her guilty; but if she did an act wrongfully which had a tendency to destroy life, but which was not done with that intention, she would be guilty of manslaughter.

The jury found a verdict of guilty against all, but with a strong recommendation in favour of one, in which I joined.

When a verdict of guilty of wilful murder is returned, a Judge, whatever may be his opinion of

its propriety or justice, has no alternative but to deliver the sentence of death and in the very words the law prescribes. It is not *his* judgment or decision, but it is so decreed that the sentence shall in no way depend upon the sympathy or opinion of the Judge. Whatever mitigating circumstances there may be must be considered by the Secretary of State for the Home Department as representing the Sovereign, and upon his advice alone the Sovereign acts.

But the Home Secretary never allows a sentence of death to be executed without the fullest possible inquiry as to mitigating circumstances, and it is at this stage that the opinion of the Judge is almost all-powerful.*

I was in accord with the Home Secretary's decision in this sensational case, not out of sympathy, but because I believed the prerogative of mercy might be consistent with justice.

The case created no less stir with the authorities than with the public, but it would serve no useful purpose to say more than that there was a consultation between the authorities and the Judges before the Home Secretary considered that the mercy of the Crown might be extended.†

* It is doubtful if sentence of death would be carried out against his opinion, although I think I have known it done. It has never been done when Sir Henry Hawkins recommended to mercy; but it has been carried out when a mere emotional representation has been made by a weak Judge. Every Judge becomes a hanging Judge so far as passing sentence of death is concerned.—R. H.

† One has only to read the reply of the Attorney-General, which, in the judgment of many, went too severely against the

My judgment in this case was the result of much anxious thought and consideration. The responsibility cast upon me was great. The case was as difficult as it was serious; but my line of duty was plain, and it was to leave the facts as clearly as I could possibly state them, with such explanation of the law applicable to each case as my ability would allow, and then leave the jury to find according to their honest belief. No duty more arduous has ever since been imposed upon me, and I performed it in my honest conscience, without swerving from what I believed, and believe still, to be my strict line of duty.

I have had many opportunities of reconsidering the whole circumstances, but I have never changed or varied my opinion after all these years, and am certain I never shall—namely, that I did my duty according to the best of my judgment and ability.

A Judge may go wrong in many ways, and often does in one way or other, especially if he does not know his own mind—the worst of all weaknesses, because it usually leads to an attempt to strike a medium line between innocence and guilt.

One great weakness, too, in a Judge is not having the faculty of setting out the facts in language which is intelligible to the jury, or in not setting them out at all, but repeating them so often and in so many forms that they are at last left in an absolutely hopeless muddle. A Judge once kept on so at the jury about 'if you find burglarious intent, and if you don't find burglarious intent,' that at last the jury found

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prisoners, and the summing up of the Judge, to see the difference between the severity of the former and the temperate language of the latter.—R. H.

nothing except a verdict of not guilty, giving the 'benefit of the doubt as to what the Judge meant.'

As an illustration of the necessity of giving the jury a clear idea of the evidence in the simplest case, I will state what took place at Exeter. Juries are unused to evidence, and have very often to be told what is the bearing of it. In a case of fowl-stealing which I was trying, there was a curious defence raised, which seemed too ridiculous to notice. It was that the fowls had crept into the nose-bag in which they had been found, and which was in the prisoner's possession, in order to shelter themselves from the east wind.

Forgetting that possibly I had an unreasoning and ignorant jury to deal with, I thought they would at once see through so absurd a defence, and did not insult their common-sense by summing up. I merely said:

'Gentlemen, do you believe in the defence?'

They put their heads together, and kept in that position for some time, and at last, to my utter amazement, said:

'We do, my lord; we find the prisoner *not guilty*.'

It was a verdict for the prisoner, and a lesson for me.

It was always my practice, founded on much calculation of the respective and relative merits and demerits of prisoners, to do what no other Judge that I am aware of ever did, which was to put convicted prisoners back until the whole calendar had been tried, then to bring them up and pass sentence after deliberate consideration of every case. I thus had the opportunity of reading over my notes and forming an opinion as to whether there were

any circumstances which I could take into consideration by way of mitigation, or, in the same manner, as to whether there were matters of aggravation, such as cruelty or deliberate, wilful malice. The result of this plan on one occasion at Stafford Assizes which I remember very well, was this: Two men were convicted of bigamy. The offence was the same in law as to both the prisoners. The one was altogether, physically and morally, a brute, cruel and merciless. The other man found guilty had been a bad husband to his wife before he went through the form of the second marriage, but as he had been already punished for his misconduct in that respect, I thought it fair that he should not be punished again for the same offence. Such is my idea of the law of England, although, I fear, it is sometimes forgotten. I therefore treated this man's crime as one of a very mitigated character, no harm having been done to the second woman, and released him on his own recognisances to come up for judgment if he should be called upon. I would not revisit upon him his past misdeeds. The other man I sent into penal servitude for five years.

CHAPTER XLII

'THAT'S ORKINS OVER THERE!'

A CONTRIBUTOR to a sporting paper told me that he overheard a gentleman, who had been sent by me to penal servitude for burglary, remark to his friend when I was at Newmarket Heath:

'That's Orkins hover there—'im a-torkin' to Corlett. See 'im? Nice bernevolent old cove to look at, ain't 'e? Yus. That didn't stop 'is guvin' me *five of his wery best*, simply becorze by accident I mistook some-b'dy else's 'ouse and plate-chest for my own. Sorter mistake which might 'appen a'most to henybody. There 'e is—see 'im? That's Orkins!'

I need not say I was frequently spoken of in this complimentary manner by persons who had been introduced to me at the Bar. I was once leading a little fox-terrier with a string, because on several occasions he had given me the slip and caused me to be a little late in court. I led him, therefore, in the leash until he knew his duty.

On this day, however, as the crowd was waiting for me on the little platform of a country station, my fox-terrier jumped out in front of me while I was holding him by the string.

'Good ——!' cried a voice from a gentleman to

whom I had previously given a situation under Government, livery and all found; 'why, blow me if the old bloke ain't blind! Lookee there, 'is dawg's a-leadin' 'im; wot d'ye think o' that? Blow me tight!'

But persons in much higher stations were no less at times fond of chaff, which I always took good-humouredly. A story of Lord Grimthorpe, who, many years after, had some fun with me at times over my little Jack, the dearest of all my pets, will appear in his reminiscences a little farther on. I used to lead Jack with a string in the same manner as I had done the other, for educational purposes, and Lord Grimthorpe jocularly called me Jack's prisoner. But poor Jack must tell his own story in his own way when his turn comes.

The Midland Circuit was always famous for its ill accommodation of Her Majesty's Judges, and of late years even in the supply of prisoners to keep them from loitering away their days in idleness or lonely diversions.

I always loved work and comfortable lodgings, and, I may say, from the first to the last of my judicial days, set myself to the improvement both of the work and the accommodation. I constantly told the magistrates of the counties that when Assizes came before Quarter Sessions, Quarter Sessions cases, as they were called, should be sent to Assizes, so that the prisoners should not be punished *before* trial by being kept in custody. Their character or liberty was of the same importance whether the offence was little or big, a Quarter Sessions or an Assize case.

Some Judges in their charges discoursed to the grand jury of our foreign relations, turnips, or the

state of trade; but I took a more humble theme at Aylesbury, when I said, after having called the attention of that august body to the miserable condition of the quarters assigned to Her Majesty's Judges, which were such that an officer would hardly think them good enough to billet soldiers in:

'My rest, gentlemen, has been rudely disturbed in the lodgings assigned to me. My bedroom was hardly accessible, on account of what appeared to be a dense fog, which was difficult to struggle through. I sought refuge in the dressing-room. Being a bitterly cold night and a very draughty room, someone had lighted a fire in it, but, unfortunately, all the smoke came down the chimney after going up a little way, bringing down as much soot as it could manage to lay hold of. All this is the fault of the antiquated chimneys and ill-contrived building generally. My marshal was the subject of equal discomfort; and I think I may congratulate you, gentlemen, not only on there being very few prisoners, but also on the fact that you are not holding an inquest on our bodies.'

The grand jury were good enough to say that there was an institution called the 'Standing Joint Committee, who will, no doubt, inquire into your lordship's subject of complaint.' The 'Standing Joint Committee' sounded powerfully, but I believe no further notice was taken, and the question dropped.

'That's a nice un,' said one of the javelin-men at the door when a friend of his came out. 'Did yer 'ear that, Jimmy?' Orkins is a nice un to talk about lodgings. Let him look to his own cirkit—the 'Ome Cirkit—where my brother told me as at a trial at Guildford the tenant of that there house wouldn't pay

his rent. For why? Because they was so pestered wi' wermin. And what do you think Orkins tells the jury? —he was counsel for the tenant—"Why," he says, "gentlemen, you heard what one of the witnesses said, how that the fleas was so outrageous that they ackshally stood on the backs o' the 'all chairs and barked at 'em as they come in." That's Orkins on his own circuit; and 'ere he is finding fault with our lodgings.'

[But Sir Henry not only looked up smoky chimneys. The Press said of him at Wells that he was the most alert and effective magistrate who ever sat there, and that he had just been waking up that ancient little drowsy nest of ecclesiasticism in a way that they would remember until they dosed off again into the next lethargic state. He not only complained bitterly of the cold, but warmed up the police in a manner which made even them open their eyes while they were before him giving, as evidence, what was not evidence at all. 'Somebody ought to keep the police in order,' said Sir Henry; 'such recklessness is simply scandalous, and I marvel that anybody could be found sitting on the judicial seat to accept a statement like this, and allow such a person to give evidence upon oath that such a crime had been committed.'

When he got a policeman fairly committed to his line of evidence, which the counsel did not quite see his way to break through, Sir Henry took him in hand in the quietest manner, and allowed him to tell his story all over again in his own way, while he himself sat and listened, with the top of his quill pen at the corner of his mouth as if he were smoking a long pipe.

'Yes! Go on.'

The policeman, deriving confidence from the gentle tone, went on with a louder and more confident voice himself till he was suddenly arrested by the Judge:

'Just repeat what the prisoner said when you apprehended him. I want to hear that.'

The witness hesitated, and was lost, unless he could repeat word for word; this he could not possibly do, for his memory was momentarily in a state of suspense.

'Go on; give me the exact words he used. Let us know what it was he said.'

The witness got along a little way, but not exactly in the same words that he had used before.

'Do you swear he used those words?'

'Words to that effect, my lord.'

'What *effect?* What do you mean by that "effect"? Did he use those *very* words?'

'What I said in the depositions, your lordship.

'Have you read them over before coming here?'

'Can't say.'

'If you have, it's more than I have been able to do. I had to get them translated into English, for the manner in which depositions are written by magistrates' clerks is a disgrace to the administration of justice. Now, just attend. Are you prepared to swear he said anything when you took the man into custody?'

'Yes, my lord.'

'What?'

The policeman gives it up, and the prisoner is restored to liberty.]

It was not long after my arrival at Lincoln on the first occasion of my visiting that drowsy old ecclesiastical city that I was waited upon, first by one benevolent body of gentlemen, and then another, all philanthropists seeking subscriptions for charitable objects.

One bitterly cold frosty morning I was standing in my robes with my back to the fire at the Judge's lodgings waiting to step into the carriage on my way to court, when a very polite gentleman, who headed quite a body of other polite gentlemen, asked 'if his

lordship would do them the honour of receiving a deputation from the L. and B. Skating Club.' I assented: nothing would give me more pleasure; and in filed the deputation, arranging themselves, hats in hand, round me in a semicircle.

'We have the honour, my lord, to call upon your lordship in pursuance of a resolution passed last night at a special meeting of our club——'

'What is the name of your club?'

'The L. and B. Skating Club, my lord.'

'What is its object?'

'*Our* object, my lord?'

'No, the object of your *society*. I can guess your object.'

The leader answered with a smile of the greatest satisfaction:

'Er—skating, my lord.'

'Your own amusement?'

The head of the deputation bowed.

'Do you want *me* to skate?'

'No, my lord; but we take the liberty of asking your lordship to kindly support our club with a subscription.'

'When I see,' I replied, 'so much poverty and misery around me which needs actual relief, and when I look at this inclement weather and think how these poor creatures must suffer from the cold, it seems to me that *they* are the people who should apply to those who have anything to bestow in charity; not those who are the only people, as it would appear, who can take pleasure in this excruciating weather. See if your club cannot do something for these poor sufferers instead of collecting merely for your own personal

amusement; contribute to their necessities, and then come and see me again. I shall be here till Monday.'

The head of the deputation stared, but it did not lose its presence of mind or forget its duty. The deputation made a little speech 'thanking me heartily for the kind manner in which they had been received.'

I never saw anything more of them from that day to this.

[In a case at Devizes Sir Henry showed, in a striking manner, the character he always bore as a humane Judge. He was not humane where cruelty was any part of the culprit's misdeeds, for he visited that with the punishment he thought it deserved, and his idea of that was on a somewhat considerable scale.]

I was down upon cruelty, and always lenient where there were any mitigating circumstances whatever, either of mental weakness, great temptation, provocation, or unhappy surroundings.

A woman was brought up before me who had been committed to take her trial on a charge of concealing the birth of a child. For prisoners in these circumstances I always felt great sympathy, and regarded the moral guilt as altogether unworthy of punishment. The law, however, was bound to be vindicated so far as the legal offence was concerned. She had already been in prison for three months, because she was too poor and too friendless to find bail. I am always pointing out that if magistrates would send more cases to the Judges than they do, they would get some precedents as to the appropriate measure of punishment, which they seem badly to need; this woman had already been punished, without being found guilty, with three times the punishment she ought to have

received had she been found guilty. A month's imprisonment would have been excessive.

Prisoners should always be released on their own recognisances where there is a reasonable expectation that they will appear.

The result was that the unhappy woman, who had been punished severely while in the eye of the law she was innocent, was discharged when she was found to be guilty.

We have seen how Mr. Justice Maule examined a little boy as to his understanding the nature of an oath. I once examined a little girl upon a preliminary point of this kind, before she had arrived at that period of mental acuteness which enables one to understand exactly the meaning of the words uttered in the administration of the oath. The child was called, and after allowing the form of 'the evidence you shall give,' etc., and 'kiss the book,' to be gabbled over, I said, before the Testament could reach the child's lips:

'Stop! Do you understand what that gentleman has been saying?'

'No, sir.'

I think it is a great farce to let little children be sworn who cannot be expected to understand even the language in which the oath is administered, to say nothing of the oath itself. How can they comprehend the meaning of the phrases employed? And many grown-up uneducated people are in the same situation. Surely a simple form, such as, '*You swear to God to speak the truth*'—or, even better still, to make false evidence punishable without any oath at all—would be far better.

CHAPTER XLIII

'JACK'

I WAS always fond of dogs, and never cease to admire their intelligence and sagacity.

My little Jack was given to me when quite a puppy by my old and very dear friend Lord Falmouth. He was brought to me by Lady Falmouth, and from that time his history was my history, for his companionship was constant and faithful; in my hours of labour and of pleasure he was always with me, and I quite believe, if I had had any sorrows, he would have shared them as he did all my pleasures—nay, these he enhanced more than I can tell.

Of course, he invariably came circuit, and sat with me in my lodgings and on the Bench close beside me. Jack and I sat *in banc;* and there he would faithfully and patiently remain till the time came for me to close my note-book for the day. Whether he liked it or not I am unable to say, but he seemed to take an interest in the proceedings. About this, however, his reminiscences will speak for themselves. He always occupied the seat of honour in the Sheriff's carriage, and walked to it with a dignity worthy the occasion. I am glad to say the Judges all loved Jack, and treated him most kindly, not for my sake, but, I believe, for his own, although, I

may add in passing, he sometimes gave them a pretty loud rebuke if they showed any approach to ill-humour at an occasional want of punctuality in coming into court. Some of them were exceedingly particular in being up to time to a *moment;* and I should have been equal to the occasion at all times but that I had to give Jack a run before we started for the duties of the day. It was necessary for his health and good behaviour. On circuit, of course, whenever there was little to do—I am speaking of the Midland particularly, although the Western was quite as pleasant—I gave him longer runs. For instance, in Warwick Park nothing could be more beautiful than to loiter there on a summer morning, and amongst the cedars on the beautiful lawn.

It may seem unreasonable to say so, but Jack almost seemed to be endowed with human instincts. He was as restless as I was over long windy speeches and cross-examinations that were more adapted for the smoking-room of a club than a court of justice ; and in order to repress any tendency to manifest his displeasure I gave him plenty of exercise in the open air, which made him sleep generally when counsel began to speak.

At one of these Country Assizes, I recollect my old friend Lawrance was my colleague, and a pleasanter one could never be. I was out after breakfast as usual, and probably, tempted by the fineness of the morning, had wandered farther than I ought to have done. The High Sheriff had to come with his carriage for the Judge's use about three miles, and I saw it with all its blazonry and pomp, and awful hair-powder and silk-embellished calves ; with trumpeters, outriders, and the rest of the paraphernalia of greatness—all the pomp and splendour,

in fact, that Sheriffdom was capable of, coming along in the direction of the town.

But he did not see me. That was my fault, and not the Sheriff's; he knew me only in my robes, and not having them, I was too far off to be recognised.

I was rather late at court that morning—perhaps half an hour—and Lawrance said to me at lunch:

'There's a serious complaint against you.'

I asked what it was, for I was not used to complaints against myself.

'Well,' said he, 'the High Sheriff made a remark about it being a great pity that you were always late, and he begged me to say it was a matter of importance in the performance of his duties to be punctual.'

'What did you say to him? It was a little impertinent to give orders to the Judge.'

'I said: "Before you accuse him of want of punctuality, wait till *four o'clock*, and you'll see how punctual he is—that is to say, in London."'

There was on one occasion, I remember, a dreadfully long-winded counsel before us. His speeches branched off in all directions, like the weed country people call 'bethwine,' and his questions in cross-examination were so long that the end could never be sighted from the beginning. A case, in consequence, often took three days that should only have occupied as many hours. This gentleman had been cross-examining a witness for an hour and a half one afternoon, which was now arrived at the stroke of four, and he was commencing to put another question as the first stroke fell. I quietly said:

'To-morrow morning, Mr. ——, at half-past ten, we will hear the remainder of that question, and the whole

of the answer'—and I closed my book with the last stroke of four.

Lawrance was right.

Having mentioned the commencement of my companionship with Jack, which in these reminiscences I would on no account omit, I shall let him hereafter tell his own experiences in his own way.

CHAPTER XLIV

JACK'S REMINISCENCES

I WAS born into the family of my Lord Falmouth, and claim descent from the most well bred of my race in this kingdom, the Smooth Fox-Terrier. All my ancestors were noted for their love of sport, their keen sense of humour, and hatred of vermin.

At a very early period of my infancy I was presented to Sir Henry Hawkins, one of Her Majesty's Judges of the High Court, who took a great fancy to me, and, if I may say so without appearing to be vain, at once adopted me as his companion and a member of his family.

Sir Henry, or, as I prefer to call him, my lord, treated me with the sweetest kindness, and I went with him wherever it was possible for him to take me. At first my youthful waywardness and love of freedom —for that is inherent in our race—compelled him to restrain me by a string, which I sometimes pulled with such violence that my lord had to run, and on seeing us so amusing ourselves one morning, old Lord Grimthorpe, I think they called him, who was always full of good-natured chaff, cried out:

'Halloa, Hawkins! What, has Jack made you his prisoner? Ha! ha! Hold him, Jack; don't let him get away.'

Well, this went on for several weeks, what I think you call chaff, and at last I was allowed to go without the string. It happened that on the very first morning when I was thus given my liberty, whom should we meet but this same old Lord Grimthorpe.

'Halloa!' he cries again—'halloa, Hawkins! Does your keeper let you go without being attached to a string?'

'No, no,' says my lord—'no, no; Jack's attached to *me* now.'

Thereupon dear old Grimthorpe, who loved a joke, laughed till his elbows rested on his knees as he stooped down.

'Well,' said he, 'that's good, Hawkins, very good.'

On another occasion, while I was yet in the leading-string, one of those country yokels who always met us at Assize towns, and got as close up to our javelin-men as they could, so that we could not only see them but indulge our other senses at the same time, seeing us get out of our carriage, said to another yokel: 'I say, Bill, blarmed if the old bloke ain't brought his dawg agin—that there fox-terrier—to go a-rattin'.'

I did not know what 'rattin'' meant at that time, and did not learn it till we got to Warwick. I thought it was pretty rude to call my lord a 'bloke,' especially in his red robes, but I did not quite know what 'bloke' meant, for I had seen so little of mankind.

One morning before we opened the Commission at Warwick—I may as well come to it at once—my lord and I went for a walk along the road that leads over the bridge by Warwick Castle towards Leamington. There is then a turning to a village which belonged to the old days, but does not seem now to belong to any-

'Luck'

thing, and looks something like a rural watering-place, most quiet and unexciting. We turned down this quiet road, and came alongside a beautiful little garden covered with flowers of all kinds.

I had occasion afterwards to learn whom they belonged to, but I will tell you before we go farther so as to make the situation intelligible. He was a countryman who used to make it his boast that he never had a day's schooling in his life (so that he ought to have been leader of the most ignorant classes), and this made him the independent man he was towards his betters. Then my Lady Warwick used to take notice of him, and this also gave him another lift in his own estimation. He learnt to read in the long-run, for he really had a good deal of native talent for a man, and set himself up for a politician and a something they call a philosopher, which any man can be with a pint pot in front of him, I am told, especially at a village alehouse.

He was a great orator at the Gridiron beershop in the lane which runs round one part of my Lord Warwick's park, and it was said that old Gale—such was his name—had picked up most of his education from his own speeches. Gale was also the lawyer of the village; he could tell everybody what his rights were, if anybody had any besides Gale: but he declared he had been done out of his rights by a man who had lent his old father some money on the bit of land I am coming to.

As we went along, what should we see but a rat. I knew what he was in a moment, although I had never seen such a thing before, and I knew I had to hunt him. My lord cries, '*Cis!—rat, Jack—rats!*'

Away I went after the rat—I did not care what his name was—and Sir Henry after me, with all the exuberance he used to show when he was following the 'Quorn.' Presently we heard the dreadful orator's voice using language only uttered, I am glad to say, amongst men.

'Where the h—l are you coming to like this?' he cried.

I forgot to say that our marshal was with us, and of course he took upon himself to explain how matters stood; indeed, it was one of his duties when Judges went out a-ratting to explain *who* they were. So when we arrived at the place where they were talking together, I heard the dreadful man say:

'Judge o' th' land! He ain't much of a judge o' th' land to tear my flowers to pieces like that. Look at these 'ere toolips.'

Yes, I thought, for I had learnt a little how to joke by this time, and *hear* those two lips! Bow-wow! I was proud of that.

The marshal explained how it was for the improvement of Sir Henry Hawkins' health that a little fresh air was taken every morning.

'Lookee 'ere,' says Gale, 'I didn't know it wur the Judge doin' me the honour to tear my flower-beds to pieces. I bin workin' at these 'ere beds for months, and here they are spilt in a minit'; but I tell ee what, Orkins or no Orkins, he ain't gwine to play hell with my flower-beds like that 'ere. If he wants the ground for public improvement, as you call it, well, you can take it under the Act. There's room enough for improvement, I dessay.'

Well, instead of his lordship sending the man to

prison, as I thought to be sure he must do, he speaks to him as mild as a lamb, and tells him he commends his spirit, and actually asks him what he valued the flowers at. A Judge condescending to do that! This mollified the old man's temper, and turned away his flowery wrath, so he said at once he wasn't the man to make a profit out o' the circum*starnce;* but right was right, and wrong worn't no man's right, with a great many other proverbs of a like nature, which are as hard to get rid of amongst men and women as precedents amongst Judges; and then the old man, much against his will and inclination, had a sovereign forced upon him by our marshal, which he put into his pocket, and then accompanied us to the gate.

Now came this remarkable circumstance: When we got back to our lodgings after being 'churched,' what should we find but a beautiful nosegay of cut flowers in our drawing-room from old Gale, and every morning came a similar token of his good-nature and admiration while we were there, and the same whenever we went on that circuit.

I must break off here, for my lord is calling me, and our Sheriff is waiting to escort us to church. It is Sunday.

CHAPTER XLV

JACK'S REMINISCENCES (*continued*)

ONE of our servants was kind enough to make me a set of robes exactly like my lord's, which I used to wear in the Court of Crown Cases Reserved and at high functions, such as the Queen's Birthday or Chancellor's breakfast. In court I always appeared in mufti on ordinary occasions —that is to say, I did not appear at all ostentatiously, like some men, but sat quietly on my lord's robe close to his chair.

I well remember one occasion while we were at Hereford, a very pompous and extremely proper town, as all cathedral cities are; my lord and I were robed for the reception of the High Sheriff (as he is called) and his chaplain, who were presently coming with the great carriage to take us to be churched before we charged the grand jury.

Hereford is a very stately place, and enjoys a very high opinion of its own importance in the world. It is almost too respectable to admit of the least frivolity in any circumstances. You always seemed to be going to church at Hereford, or just coming out—the latter was nicest—so that there was, in my time, a sedateness only to be equalled by the hardness of a Brazil nut, which would ruin even my teeth to crack. I don't know

if that is a proper word wherewith to describe a true solid Herefordian, but, if so, judge of the High Sheriff's surprise, as well as that of the chaplain, when I walked by the side of my lord into our drawing-room! I never saw a clergyman look so glum! Is that correct? We were both in robes, as I observed, and my lord was so pleased with my appearance that he held me up for the two dignitaries to admire. But Hereford does not admire other people; they confine their admiration within their own precincts; what they have they know what to do with.

On our way from the station to our lodgings, I ought to have said both these gentlemen were full of praises. Who would not admire a Judge's companion? I believe if I had been the veriest mongrel every other mongrel would have paid me homage, as if my name had been inscribed in the stud-book. Is that correct, I wonder? But I am not writing to dissect human character, or to praise or blame, *only* to give these few instances of my companionship with my lord.

Although Sheriff and chaplain were highly proper, the former could not restrain a hearty laugh, while the latter tightened his lips with a reproving smile. But then the chaplain, with a proper reverence for the State function, afterwards looked very straight down his nose, and, hemming a little, ventured to say:

'My lord, are you *really* going to take the little dog to divine service in the cathedral?'

My lord looked quite astonished at the question, and then put his face down to me and pretended to whisper and then to listen. Afterwards he said:

'No. Jack says not to-day; he doesn't like long sermons.'

The chaplain would much rather I had gone to church than have heard such a reprimand.

But this is not quite the end of my little reminiscence. I heard on the best authority that the sermon of the chaplain on that morning was the *shortest he had ever preached* as an Assize discourse, and my lord attributed it entirely to my supposed observation on that subject, so that my presence, at all events, was useful.

I have always observed that lesser dignitaries are more jealous of their dignity than greater ones. Here was an excellent example of it. The chaplain looked very severe, but when this little story reached the ears of the good Bishop Atlee, he was delighted, and wished to see me. I was becoming famous. I made my call in due course, and let him see that a Judge's dog was not to be put down by a mere chaplain, and came away much gratified with his lordship's politeness. After this, during our stay in the city, the dear old Bishop gave me the run of his beautiful new garden along the riverside. And there my lord and I used to gambol—not *gamble*, but play for an hour after our duties in court were over. This lovely garden was an additional pleasure to me, because I was relieved from a muzzle. There was only one thing wanting: the Bishop kept no rats.

After this his lordship never saw my lord without asking the question, 'How's dear Jack?' which showed, at all events, how much a Bishop could respect a little dog, and how much superior he was to a chaplain. I heard him say once we were all God's creatures, but that, of course, I was not able to understand at the time. I did not know if it included the chaplain.

I think I must now tell a little story of myself, if you will not think me conceited. It is about a small matter

that happened at Cambridge. One day a very amiable but dreadfully noisy advocate was cross-examining a witness, as I thought, rather angrily, because the man would not say exactly what he wanted him to say. My lord did not take notice of this, and it went on until I thought I would call his attention to the counsel's manner, and, accordingly, I gave a growl—merely a growl of inquiry. Brown—which I learnt was the counsel's name—was a little startled at this unexpected remonstrance, and paused, looking up at the Judge.

'Go on,' said my lord—'go on, pray,' pretending not to know the cause of the interruption.

He went on accordingly for a considerable time, with a very noisy speech—so noisy that one could not hear one's self bark, which I did two or three times without any effect. However, at last I made one of my best efforts.

But this was bad policy, inasmuch as it attracted too much attention to myself, who had been hitherto unseen.

My lord, however, thanks to his presence of mind, had the kindness to say:

'Dear me! I wish people would not bring their dogs into court.' Then, turning to our marshal, he said: 'Take Jack into Baron Pollock's room'—the Baron had just gone in to lunch, for he was always punctual to a minute—'and ask him to give him a mutton-chop.'

And when, five minutes later, my lord came in, the Baron was enjoying his chop, and I was eating my lord's.

In another court the Judge administered a well-timed rebuke to a flippant and very egotistical counsel, and I could hardly restrain myself from administering another.

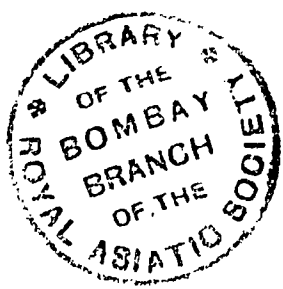
During the progress of the address to the jury for the defence, the young counsel said:

'Why, gentlemen, there is not sufficient evidence against the prisoner *on which to hang a dog.*'

'And how much evidence, Mr. ——, would you consider sufficient to hang a dog?'

'That would depend, my lord, as to whom the dog belonged to.'

I could not help thinking how like human nature that young man was.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CHAPTER XLVI

JACK'S REMINISCENCES (*continued*)

I USED to have a very good view of all that took place in court without being seen, and could, an I would, tell some very funny as well as interesting stories about persons I have seen. Oh, the roguery between ——! But no matter, I wag my tail as Nature taught me, and speak ill of no one. It is my lord's way never to speak ill of anyone or say anything that may hurt anybody's feelings, and take good care not to do or say anything that may hurt himself. I heard him give a chaplain once this good advice, and he wrote it all down in his book.

One day I was amused *so* much that, had I not remembered where I was—namely, in a court of justice—I must, like my friends mentioned by Robert Burns in his 'Twa Dogs,' have 'barked wi' joy,' because I thought it so strange. Here was a Queen's Counsel, a man of so proper a countenance that I do not think it ever smiled in its life, and so very devoted to his profession that he would never think of leaving it to go to a racecourse. I should have as soon expected to meet him in our dogs' home looking for a greyhound to go coursing with on Primrose Hill, and

here he was standing up on his hind-legs and making an application to the court which my lord was never in his life known to grant.

It was the night before the Derby, and we always took care to have a full list of cases for that Wednesday, for *fear* the public should think we went to the Derby and left the work to look after itself. We generally had about a dozen in pretty early in the afternoon of Tuesday, so that the suitors and witnesses, solicitors and all others whom it concerned, might know where they were, and that *they* could not go to the Derby the following day.

What a scene it was as soon as this list was published! I used to sit and watch the various applicants sidle into their seats with the most sheepish faces for men I ever saw. In came the first gentleman, flustered with excitement.

'Would your lordship allow me to make an application?'

'Yes,' said my lord—'yes; I see no objection. What is your application, Mr. ——?' I will not give his name.

'There is a case, my lord, in to-morrow's list—number ten. It is quite impossible, seeing the number of cases before it, that that case can be reached.'

'If that is so,' said my lord, 'there is no necessity for making any application—if you know it is impossible to reach it, I mean to say——'

'It is *ex abundanti cautela*, my lord.'

I think that was the expression, but, as it is not dog-Latin, I am not sure.

'It is a good horse to run, I dare say,' said my lord, 'but I don't think he'll win this time.'

The counsel shook his head and would have smiled, I could see that, only he was so disappointed. I felt sorry for him, because his clients had made arrangements to go to the Derby. As he was turning disconsolately away, my lord spoke with a little more encouragement in his tone, and a quiet smile.

'We will see later, Mr. ——. Is your client *unable* to appear to-morrow?'

'I'm afraid so, my lord, quite.'

'Have you a doctor's certificate?'

'I am afraid not, my lord; he is not ill.'

'Then you can renew the application later; but understand, I am *determined to get through the list.*'

That was so like my lord; nothing would turn him from his resolution, if he sat till midnight, and I nearly barked with admiration.

Then came number six in the list, with the same complaint that it was not likely to be reached.

'I'm not so sure,' said Sir Henry. 'I have just refused number ten; yours is a long way before that. Some of the previous ones may go off very soon; there does not seem to be anything *very long* in front of you, Mr. ——. What's your difficulty about being here?'

'The real difficulty, my lord——' And as he hesitated, the Judge said:

'You want to be elsewhere?'

'Frankly, my lord, that is so.'

'Very well; if both sides are agreed, I have no objection. If I am not trying your case I shall be

trying someone else's, and it is a matter of perfect indifference to me whose case it is.'

An hour after in came a brisk junior stating that his leader was unavoidably absent.

'What is the application, Mr. Wallsend?'

'There's a case in your lordship's list for to-morrow, my lord.'

'Yes. What number?'

'Number seven, my lord. I am told number six is a long case, and sure to be fought. My application is that, as that case will last over Friday——'

'Friday? Why Friday?'

There was a little laughter, because it happened to be the Oaks day.

'I'm told it's a long case, my lord.'

'Yes, but number six has gone, so that you will stand an excellent chance of coming on about two o'clock, perhaps a little before. What is the nature of your case?'

'Illegal imprisonment, my lord.'

'Very well; if it is any convenience to you, Mr. Wallsend, I will take it last.'

By the look of the young man it seemed of no great convenience.

'That will give your witnesses time to be here, I hope.'

The counsel shook his head, and then began to say that the fact was that his client had an engagement, and his lordship would see it was the great race of the year.

'I do not like these applications made in this random manner. I am willing to oblige the parties in all

cases if I can, but these constant motions to postpone interfere very much with the public convenience, and I mean to say that the public are to be considered.'

Now came the gentleman who never attended races, and devoted himself to business. He could not have told you the name of a horse to save his life. But he also made his application to postpone a case until Thursday. Delightful day, Thursday; such a convenient day, too—between the Derby and the Oaks.

Said my lord, who was very friendly to the learned counsel, and liked him not only as a member of his old circuit, but as a brother Bencher and a clever advocate:

'Oh, I see; I see where *you* want to be to morrow.'

'My lord!'

It was no use; in spite of the gentleman's remonstrance and protestations, he said:

'You may go, Mr. ——, and I hope you will enjoy yourself.'

I need hardly say nothing was left of the list by twelve o'clock the next day, and Sir Henry had the honour of going in the royal train and dining at Marlborough House in the evening.

I ought, perhaps, to mention that there was a case proceeding when all these interruptions took place. I don't know the name, but two counsel were in it, one of whom was remarkable for the soul of wit which is called *brevity*, and the other was not. One was Frank Lockwood, Q.C., a very amusing counsel,

whom I always liked, because he often sketched me and my lord in pen and ink.

Mr. Jelf, Q.C., was the other learned counsel. Although I liked most of the barristers, I often wished I could teach them the invaluable lesson *when to leave off.* It would have saved many a verdict, and given me the opportunity of hearing my own voice.

Lockwood was cross-examining, and appeared to me dealing rather seriously with Jelf's witnesses, who were a pious body of gentlemen, and prided themselves, above all things, on speaking the truth, as though it was a great credit not to commit perjury.

At last Mr. Jelf, tired with being routed in so ruthless a manner, cried in a lamentable voice:

'Pray, pray, Mr. Lockwood!'

'So I do,' said Lockwood—'so I do, Mr. Jelf, at fitting and proper times.'

CHAPTER XLVII

A TRAGIC STORY

JUDGES differ not merely in opinion, or there would be no variety in law, but also in their ways, or there would be no variety of temperature in the court.

One of my oldest friends, speaking of my hatred of draughts, said: 'It is better to be kept warm—say at 85° under Hawkins—than to have been frozen to death under Jemmy Parke, who used to order every window in the court to be thrown open, and angrily tell the javelin-man to break every square of glass in the building if there was any difficulty.

On the Midland Circuit the great Jemmy went the Spring Assize, and his extraordinary love of fresh air was such that it caused the death of poor Partridge, who led in a criminal case which lasted three days. Snow absolutely poured into court through the open windows and into poor Partridge's lungs, so that he caught a terrible cold and died in a few days.*

* It was many years after this that the cause of Sir Henry's love of warmth was discovered; and it is to be hoped, for old Jemmy's sake, that when he left a world where there was too little air he did not get into one where there was still less. This discovery was made by a clever junior who mentioned it at a dinner of the Birmingham Law Society, when Mr. Justice Wright presided, and it was, he stated, to prepare the Bar *for the state of things hereafter*.—R. H.

A too indulgent critic once said to me: 'You always impress everyone, Hawkins, with your summing up of a long case. You take every point without ever referring to a note, and give names of persons and streets with the greatest readiness and accuracy, while the language, always admirably chosen and elegant, flows with absolute freedom.'

[In giving the character of Sir Henry as a Judge, before passing into the region of incidents which marked his judgeship, I shall quote from the *Daily Telegraph* of March 11, 1895.

Speaking eloquently of the necessity for Justice sometimes 'to strip the bandage from her eyes and look into the real merits of a case more closely than the common law will allow, and to exchange confidences with her sister Mercy,' it mentions the following case as showing his unequalled knowledge of human nature and the sound equity of his decrees:

'A young, respectable woman had been led away by a villain, who was already married, and under a promise of marriage had betrayed her. He induced her to elope with him, and suggested that she should tear a cheque out of her father's cheque-book and forge his name. So completely was she under his influence that she did so. He sent her to different banks to try and cash it, but it was not till she got to a local bank, where she was known, that this was accomplished. The cheque was for £200. But the seducer never obtained the money; the girl was apprehended before she reached him.

'Sir Henry openly expressed his strong sympathy for the unhappy girl, and ordered her to be bound over in her own recognisance of £20, to come up for judgment when called upon.']

During the early years of my tenure of office as a criminal Judge I became, and still am, firmly impressed

with the belief that to enable one filling that office to discharge the twofold duty attached to it—namely, that of trying the issue whether the crime imputed to the prisoner has been established by legal evidence, and if so, what punishment ought to be imposed upon the prisoner, assuming the presiding Judge to be the person to determine it, it is absolutely essential that he should keep the whole of the circumstances in his mind and carefully weigh every fact which either forms an element in the constitution of the offence itself or has a substantial bearing as affecting the aggravation or mitigation of the punishment—for it is not only essential that these matters should be known to and appreciated by the Judge who tried the case—but that they may be also presented for the information of the Home Secretary, who ought to be acquainted with them, so that he may form a satisfactory view of the whole of the circumstances surrounding the case.

A strange story that will ever stand out in my memory as one of the most dramatic of my life was that of a young lady who was a professional nurse at the General Hospital at Liverpool. She was young, clever, and, I believe, beautiful, as well as esteemed and loved by all who knew her.

She had become engaged to an engineer, and it had been arranged that she should pay a visit to her mother in Nottingham on a Friday so as to acquaint her with their engagement, and that the intended husband should come on the following Monday.

The parents were poor, respectable people, and the girl herself had very little, so that when she went to Nottingham she had no change of attire, but went in

her professional nurse's dress. It was her intention, however, to buy an ordinary dress at Nottingham.

There was a dressmaker in that city whom her mother knew, and with whose children in their early days her daughter had played. Accordingly in the evening the nurse with a younger sister went to the cottage to make the necessary arrangements.

While she was there the son of the dressmaker came in, and was at once attracted by the beauty and the manner of the girl. As they had known one another in childhood, it was not surprising that they should chat with more familiarity than would have been the case had they been strangers.

When the nurse rose to go, the young man, who had become so suddenly attached to her, or, at all events, so violently smitten with her charms, asked permission to accompany her home to her mother's. She declined, but he persisted in his request.

This young man was a clever mechanic, and had invented a machine for making chenille. Sad to say, this invention he used for the purpose of inveigling the poor girl into his workshop, which was situated on the second-floor of an extensive range of warehouses in a yard at Nottingham. He asked her to come on the Monday morning, and when she informed him that her lover was to arrive by the 12.30 train at Nottingham Station, he said if she came at eleven she would have plenty of time to see his invention, and then meet her lover. She at last consented, and arranged to meet him at the time proposed.

I now come to a series of facts of a sensational character. On the Monday morning she went, according to the appointment, and was seen to go with him

up a flight of steps which led from the yard to the first-floor. The door opened on to the landing outwardly. In about a quarter of an hour after, the girl was seen staggering down the steps, and crossing the yard in the direction of the street. In the street she fell, and was conveyed to a neighbouring house. After a doctor had seen her she was taken to a hospital.

Some time afterwards the man himself came down the steps, and was informed by several persons that a girl had been seen coming out of his premises bleeding, and had been taken to a cottage.

'Was there?' said he, and walked away.

In the afternoon he was apprehended. He said he was very sorry, but that he was showing the girl a little toy pistol, that it had gone off quite accidentally, and that she was wounded. He wished to be taken to the hospital where she was.

The magistrate in the meanwhile had been informed of the occurrence, and with his clerk attended at the hospital to take what is called her dying deposition, which means a deposition that, under certain conditions, can be read in court.

There was an amount of skill and ability about the prisoner which was somewhat surprising to me, who am seldom surprised at anything.

'Did you not think it was an accident?' he asked.

The poor dying girl answered, 'Yes.'

In re-examination by the magistrate's clerk at the end of the business, the following answer was elicited:

'I thought it was an accident before the second shot was fired.'

The extraordinary part of this story to my mind is that the able counsel—and able he indeed was who

defended him—treated the matter as the most frivolous prosecution that was ever instituted. I know that he almost laughed at the idea of murder, and, further, that the junior counsel for the prosecution treated the charge in the same manner, and said that, in his opinion, there was no case.

The man was indicted before me for wilful murder, and I am bound to say, after reading the depositions, I could come to no other conclusion than that he was guilty of the most cruel and deliberate murder, if the depositions were correct.

I went with the counsel on both sides to view the scene of the alleged murder, and it was agreed that the counsel for the prosecution should indicate as well as he could the case for the Crown by merely stating undisputed facts in connection with the premises.

The flight of steps, as I have said, led from the courtyard to the first landing.

The door opened outwards, and the first visible piece of evidence was that some violence had been exercised in forcing open the door on the occasion of someone making his or her escape from the building, for the staple into which the bolt of the lock had been thrust showed that the door had been locked on the inside, and that the person coming from the premises must have used considerable force in breaking through.

The key was not in the lock, neither had it fallen out, or it would have been found somewhere near. It had evidently been taken out and secreted, because it was found at the bottom of a dustbin a long way off from the staircase and in the room occupied by the prisoner.

There was one additional fact at this part of the

view which I must mention. A bullet was picked up near the door. It had struck the opposite wall, and then glanced off and hit the other wall close to the door.

The bullet had been fired from the landing above; this was indicated by the direction as it glanced along the wall, and further, by the mark it had left of its line of flight from the landing above, for it had struck against the low ceiling of that spot as though the person firing had fired in a hurry and had not taken sufficient aim to avoid it. It might be taken, therefore, that the person firing was not used to firearms, or he would not have hit what might be called the ceiling.

The bullet was produced by the chief constable.

On reaching the second landing, the mark of the bullet in the lintel showed clearly that it had been fired in the direction of some object below—someone, probably, descending the stairs.

On turning into the factory on this floor, which was quite empty, I saw on the wall near the doorway the mark of another bullet which had rested near and was found by the police. It was a bad aim, and showed, therefore, that the person who fired it was unused to firearms.

We went to the next room, into which we ascended by six steps; it was clear that it was from the head of these stairs that the course of the bullet was directed; its elevated position and the angle of incidence showed this. But as neither of these bullets had struck the deceased, for there was no mark of any kind to prove it, there was another bullet to be accounted for, and as the prisoner said that the pistol went off by

accident, two or three matters had to be considered. Where was the spot where the accident occurred? and was aim actually taken?

The bullet had entered the hinder part of the neck, had taken a downward direction and lodged in the spine. It did not, therefore, go off while he was explaining the pistol to her, otherwise it would have struck her at any other place than where it did.

Moreover, she had run in a state of intense fright the moment she was wounded—had commenced to run before, in fact, having escaped from the clutches of her murderer, for the skirt of her dress was torn from the gathers. It was proved that the prisoner had bought the pistol on the Saturday night, that he was unused to firearms, for he had to ask the man who sold it to explain the mode of using it. He was heard practising with it on Sunday, and when the accident occurred it was proved that the interval between the first and second shots exactly accounted for the several spaces which intervened between the respective spots where the firing must have taken place.

Much was made of the fact that the poor girl had said she thought it was an accident, but I had to call the learned counsel's attention to the statement at the end of her examination which was this: 'I thought at first it was an accident, for I could not believe he could be so cruel, but after the *second shot* I believed he meant to kill me.'

A somewhat novel incident occurred during the examination for the prosecution.

A wire stand had been dressed with the girl's clothes to show exactly where the lower part of the dress had been torn from the gathers. It was placed

on the table, and looked exactly, no doubt, as the poor girl herself. The prisoner was so much affected that he visibly shuddered.

He was condemned to death.

In the House of Commons and out of it, sympathy was, of course, aroused, not for the unhappy girl who had been sent suddenly to her account, but for the lustful brute who had murdered her. A question was asked whether it was left to the jury to say whether the young man was insane, and whether there was not abundant evidence of insanity.

The counsel for the prosecution wrote to the Home Secretary and requested him to lay his letter before the prisoner's counsel to ascertain whether he agreed with it. The letter was to this effect: 'Not only was there no evidence of insanity, but the prisoner's counsel based his defence entirely upon the fact that there was no suggestion that the man was or ever had been insane. He must have been insane if he had committed a brutal murder of that kind; there was no insanity, and therefore it was an accident.'

The humane questioner of the Home Secretary left the prisoner after that statement to his well-deserved fate.

CHAPTER XLVIII

THE SPORTING TAILOR

In the year 188– a tailor, who lived in a small shop at Birmingham, conceived the idea of supplementing his income by the more exciting occupation of the Turf. Accordingly he started for Warwick Races, and on his way thither by the Great Western fell in with two fellow-travellers who were bound for the same place. They soon had him in conversation, for they talked of the likely winners of dark horses, and of their intimacy with the different stables, of familiarity with owners, jockeys, trainers, and others connected with racing matters, so that no two persons could have better opportunities of giving the tailor a straight tip. The tailor's knowledge of the world went little beyond his goose, and it was not difficult to persuade him that a small investment at long odds sometimes brought more money in a few minutes than you could earn by tailoring in a year.

Again, he was informed by the conversation between the two companions that there was likely to be a good deal of 'in and out' running on that day.

'What's *your* opinion?' asked one of them whose name was Sharp.

The tailor thought it was very likely, although he did not really know in the least what it meant.

By the time they reached the racecourse, however, he had consented to put a little money on what was called, in the language of the Turf, a 'rank outsider'; that is to say, he handed it to Mr. Sharp, who agreed to meet him at a certain point of the course when the race was over and compare notes.

Curiously enough, the horse backed by the tailor won, and the sportsman therefore went to the appointed place of meeting with the innocent object of meeting his fellow-traveller. His friend, however, was not there. In the course of the tailor's wanderings, he at last accidentally met him.

'I've been looking after you,' said Sharp, '*everywhere;* I'm very glad I've met you. Our horse won—did you notice that?—and as I was right in my tip—I knowed what was wot—wouldn't it be as well to put the winnings on to the next race? I've got another dark un, as ull do the trick.'

It was agreed, and, strange to relate, the tailor's outsider won again, but the tipster was nowhere to be seen.

A policeman, however, found him some weeks after, and charged him with obtaining money by *false pretences* upon the tailor's evidence, and he was committed for trial to the Warwick Assizes. They knew little about false pretences at Warwick. There was *no case* of false pretences against the man, as any lawyer might know, and to that effect was counsel's opinion.

When the Assizes commenced, the accused—a big, husky-voiced man—was introduced to his counsel, and told him he had *paid* the tailor his money, which amounted to £75, 'and 'oped no more would be said about it.'

It was no sudden repentance on the man's part that caused this outburst of honesty, for he said: 'Why, it's that *Orkins* as is to try me, an' he's a member o' the Jockey Club; he'll *warn me off every course in the kingdom.*'

When the man was placed in the dock, I looked at him with some degree of curiosity; to back two outsiders in one day and win on both was a novelty even in my experience.

Both counsel had agreed that there was no case against the man, although doubtless he intended to cheat the tailor; but on a formal acquittal being taken from the jury, I gave him a few words of advice to the following effect:

'James Sharp, you have had a narrow escape from a long term of imprisonment; had you been indicted with your friend for a conspiracy, I do not know what might have happened. As it is, the evidence fails to prove the charge against you; but let me say, don't go to any racecourse again——'

'I hope, my lord, you won't sentence me to that,' said Sharp; 'I paid the money.'

'I cannot sentence you to that, but never see my face again; let me give you that caution.'

'S'help me!' said the man to his counsel, whose seat was close to the dock; 'I'd sooner see the devil.'

'Then go to him,' said his counsel.

On the same circuit Lord Justice Baggallay was the other Judge, and on one occasion several members of the Bar had been invited to dine, as was often the case. It was a pleasant evening, and a good many stories were told. Baggallay, although not a story-teller, wit, or humorist, made one laugh at his own

intense enjoyment of a joke. He seemed so astonished, and was one of the most kind and genial of men. The stories drifted from one to another, until at last an enterprising junior, whom I thought a very bold man, notwithstanding he told the story as though it was only an ordinary incident at the Bar, said he was on the platform of a railway-station some time ago, and a young solicitor told him, with a very great deal of pride, that he had just briefed Mr. ——, a very eminent Queen's Counsel.

'Pretty heavy fee?' observed the junior.

'Yes,' said he, 'very heavy. I have marked his brief "Thirty guineas."'

'Only thirty guineas! How much do you expect to see of him for that? You will be lucky if he attends the consultation.'

"Hear this, Lord Justice Baggallay?' I asked.

'I'm listening,' said the Lord Justice.

'Then,' said I, turning to the teller of the story, 'how did they get on? Did this distinguished man attend the consultation?'

'Oh yes, he attended it, but he kept them waiting a pretty good time; and in the meanwhile his clerk had placed a chair for the solicitor, and in front of him a brief marked "Three hundred guineas"!'

'A clever clerk,' said the Lord Justice.

'After a long time the eminent man came in, looked at the outside of the brief, took it up, pricked his finger with the pointed brass fastening, and uttering the most horrible things in the world your lordship ever heard, threw it down on the table, and said, "Damn the solicitor that fastens his brief with a thing of that sort! This is a case of figures, and must be referred."

'"You could not expect more than that for such a fee,"' said the junior to the solicitor.

'Who,' I asked, 'was this counsel? Was it ——?' mentioning one of the leaders of the circuit whose characteristic was not exorbitant fees.

'Oh, dear no!' said Baggallay. 'He would not put in such an appearance as that, nor would he mind pricking his fingers with the fastening of a brief.'

'Was it Smithers?' I inquired.

'No,' said the bold junior. 'The name on the brief was *Henry Hawkins, Q.C.*'

I confess this junior scored off me then, but I have scored off him a good many times since.

After this the conversation turned into the more serious subject of constructive murder. I never could understand upon what logical theory it was based. A man intending to shoot a fowl and to steal it *accidentally* kills a human being; this is called *wilful* murder. I remember a long time ago there was a gentleman, one Captain Moir, who occupied some fields on the Essex marshes, and he had been a good deal annoyed by some boatmen who had purposely trespassed upon his land, crossing and recrossing when and where they liked, in spite of all remonstrances. At last, in a moment of great irritation, Captain Moir took up his gun and fired at the legs of one of the trespassers. The shot caused the ultimate death of the wounded man; no one could say he wilfully murdered him, but he was tried for murder and hanged.

The interpretation of the law was rather the interpretation of the mind of the Judge, and men were hanged too often, guilty or not guilty.

I only remember one instance in which, there being

no true bill, a man has been tried and convicted. This was told me as having occurred before a very excellent Chairman of Quarter Sessions, Lord X——. Through some error of the Clerk of the Peace, the prisoner had been tried and found guilty, Lord X—— knowing nothing of the ignoring of the bill. He was sentenced to seven years' penal servitude. I have no doubt the man was guilty morally, for the evidence was overwhelming. When the governor of the gaol heard the circumstances under which he had received his prisoner, although the warrant might be sufficient authority under some forms of irregularity, he was in a great way about his power of detaining an innocent man after he knew the facts. At all events, he was anxious to be relieved of all responsibility. There were a good many questions involved in the matter, had the prisoner had the least idea of his position, and the chairman and everyone else were almost in a state of alarm.

There was the Home Secretary to appeal to so far as the man was concerned, and his speedy release would have been secured. But then there was their own carelessness to be considered also, for which someone ought to have taken the prisoner's place.

It was difficult to know what to do. As soon, however, as the noble chairman heard the story, he was quickly at the governor's house, and after considering the alternative of a *habeas corpus*, and application to the Home Secretary as presenting the better mode of proceeding, he at last said:

'Mr. Wilson'—(such was the governor's name)—'I think there is a more safe and expeditious mode than either of these courses: if the warder whose duty it is to lock the door and secure the prisoner were acci-

dentally to omit to turn the key on the intruder, and an equally negligent officer were to leave the prison gate ajar, you may depend upon it the prisoner would not wait for the formal order of release from the Home Secretary, and we should find him gone in the morning. He will be too glad to escape, and think of nothing but his liberty.'

The plan was adopted, and no more was heard of the prisoner from that time to this in the county of Hertford, where the circumstances occurred.

Just before this dinner Coney, the ex-prize-fighter and publican, had figured as appellant in the Court of Crown Cases Reserved.

He had been convicted of assault, consisting in looking on with the crowd at a prize-fight—on the same principle, it might be supposed, that a man looking on at a fire might be convicted of incendiarism. However, be that as it may, Coney was convicted; he appealed against the conviction, and the Appeal Court consisted of the Lord Chief Justice Coleridge, Denman, Huddlestone, Manisty, Hawkins, Lopes, Stephen, Cave, North, Pollock, and Mathew.

It took all this grand array of judicial magnates to determine Coney's question: 'Can I be guilty of assaulting two men who are assaulting one another if I do nothing and say nothing?'

There were only three who thought he could; they were Coleridge, Mathew, and Pollock. They thought that mere presence would support an inference of encouraging, aiding, and abetting, and consequently in their judgment Coney was guilty.

The others held that mere presence was not conclusive of aiding and abetting, although it might be

evidence for the jury to consider, which seems plain enough without requiring a dozen Judges to determine it.

It was also decided that it is no less an assault in law because two persons agree to it, as there can be no agreement to commit a criminal act, so as to relieve the parties from responsibility, although a civil remedy might be barred by agreement.

This subject being mentioned by Lord Justice Baggallay, I said :

'I was sitting next to George Denman in that case, and told him about the great fight between Jack Brassey and Ben Caunt many, many years ago, at Six Mile Bottom, and that I had been present.' To which Denman answered :

'So was I; I went over from Cambridge.

'*And so was I*,' said Baggallay.

Strangely enough, the next day he had to pass sentence on some persons who had been very properly committed of taking part in a fight, and the Lord Justice consulted me as to the sentence he should pass.

Probably it was the circumstances of the conviction that had brought up the conversation in Coney's case.

'I am sure,' said I, 'dear old Pollock would never have joined the minority if he had not been talked over.'

Of the whole of the Judges assembled to hear that appeal Coleridge seemed to be the only one who knew nothing about a prize-fight; the rest seem to have known Six Mile Bottom, at least geographically.

CHAPTER XLIX

THE POMPOUS SHERIFF OF DEVIZES

During one of the occasions on which I went the —— Circuit, there was a gentleman who, acting as High Sheriff—or, rather, as Sheriff, for there is, I believe, no authority for any other designation—made such an exhibition of himself that I wondered if there was in this world any possible level to which I could reduce him, and felt altogether that the earth was not constructed for people of his portentous magnitude.

Everything concerning him was on a large scale, so that when we went to church and the offertory was collected, instead of the unassuming little crimson bag at the end of a stick coming round, indicating that only a proportionate amount of your income was expected, they brought to our pew a receptacle almost as large as an old clothes-bag and capable of holding your salary for the whole year.

With a great deal of fuss and pomposity, my Sheriff at last extracted from his pocket a *bank-note*, which he dropped into this capacious reservoir of Christian charity. In my humble way I added my mite. I was determined to give him a lesson in humility, and so concealed the amount of my offering.

The sequel was worthy the occasion, and I hope gave him a lesson which High Sheriffs for all time will respect and which are too often needed. My chaplain told me that the emptying our bag was an occasion of surprise. When they arrived at the vestry the contents were explored by the hand of the churchwarden—a large corn and coal merchant of the town, who had had some little disagreement with the Sheriff—and then the receptacle was well shaken, and turned out as if they were looking for something. The bank-note lay on the table, and *looked* like *mine*—at least, they thought so—but, alas! how deceptive are appearances! When the bag was being shaken for the last time, out dropped a *threepenny-bit!* Whereupon the corn and coal merchant cried:

'D—n that High Sheriff!'

But this was not so exasperating an incident of almsgiving as one that happened elsewhere. The clergyman of the town in question was always dressed in the most fashionable ecclesiastical millinery and with exquisite taste. My sitting at church was so placed that no one could help seeing me, least of all the clergyman, who was perched upon a kind of daïs in front, so that I could not, if I would, escape his observation. I had not the least desire to do so, but felt that his admiration, if such it was, was superfluous.

He looked down upon me literally, but up to me in the figurative sense. Just before the offertory he cried in a manner more like an officer uttering the word of command than the meek minister of salvation:

'Let us now sing to the honour and glory of God the —— and—th hymn.' And then he read with the

most jubilant voice imaginable, 'From Greenland's icy mountains.'

What thoughts entered my mind I will not say. But I had heard many times before of those icy mountains, and they always gave me a cold shudder. It is a glorious hymn, although it abounds in curious imagery. But be that as it may, the hymn was given out with every incitement to enthusiasm, and off we started; but we had no sooner got into the delightful roll of the music than there passed along a great bag tempting me to put in all my worldly goods. This was a particularly inviting one, for it was lined with white satin trimmed with red.

I was much annoyed; to be interrupted when you are just getting into the spirit of a melody is most distressing, and if I had not been in church I could have uttered words which would be out of place in these reminiscences. However, by preserving my countenance and keeping my blood down to a proper temperature, things went on coolly and, I trust, satisfactorily.

All eyes were upon me, I knew, and had I not known, I should have felt. I understood them; they were anxious to see *what the Judge would give.*

I did nothing. I was so absorbed with the music that I never observed the bag, although I was told it lingered under my nose, and passed backwards and forwards several times. It is wonderful how one's attention may be engrossed by delightful music.

All I know about the situation is that I was singing like a robin, and when I looked down the beautiful object was gone; but I caught the clergyman's eyes, and they filled me with admiration for their lustre and size.

CHAPTER L

SHAMMING INSANITY

I RECOLLECT at one Gloucester Assize a man was tried before me for the murder of a woman near Bristol.

The prisoner had given his account of the tragedy, and said he had made up his mind to kill the first woman he met alone and unprotected; that is to say, he had made up his mind to kill somebody when there was no witness of the deed. Humanitarians for murderers might call this insanity.

He went forth on his mission, and saw a woman coming towards him with a baby.

He instantly resolved to kill both, and probably would have done so but for the fact that someone was seen coming towards him in the distance.

The woman and child therefore escaped, the person he had seen in the distance also passed by, and then he waited in the lane alone. In a little time he saw a poor woman coming along alone, and no one was observable all round.

He seized her, cut her throat, and she died on the spot.

No sooner had he accomplished his purpose than a young farmer drove along in his cart, and seeing the dead body in the road, and the murderer a little way off, jumped out of his cart and arrested him.

A little further along the road there was a labouring man who had not been seen up to this moment, breaking stones.

'Look after this man,' said the farmer, 'he has committed murder. Keep him safe while I go to the village and get a constable.'

'All right,' said the labourer, 'I'll keep un.

As soon as the farmer was gone the labourer and the murderer got into conversation, for they had to while away the time until the farmer had procured the constable.

'Why,' asked the stone-breaker, 'what have you been a-doin' of?'

'Killin' a woman,' answered the murderer.

'Killin' a woman!' said the mason. 'Why, what did you want to kill a woman for? she warn't your wife, was she?'

'Nay,' answered the murderer, 'or I should ha' killed her afore.'

The want of motive is always a strong argument with humanitarians, who pity the murderer and not the victim. I heard no particle of sympathy expressed for the poor woman, but there was abundance of commiseration for the fiend who had perpetrated the terrible deed.

There never was any *adequate* motive for murder, but there was never a deed committed or any act performed without motive.

Insanity on the very ground of absence of motive was set up as a matter of course, but insanity should be based on proof apart from the cruelty of the act itself. It was a premeditated crime, a bloodthirsty desire to wreak his malice on someone; but beyond the

act, beyond the malignant disposition of the man, there was no evidence whatever of insanity.

I refused to recommend him to the Royal clemency on that ground, or on any ground, for there was not the smallest pretence for saying it was not a deliberate cold-blooded murder. And the man was rightly hanged.

Society, in my opinion, should be protected from murderers. This may be hard dealing with the enemies of society, but it is just to society itself. I was never hard to a prisoner. The least circumstance in mitigation found in me a hearty reception, but cruelty in man or woman an unflinching Judge.

Take another case. In Gloucestershire a man was convicted of killing a girl by stabbing her in no less than thirty-eight places.

Again the humanitarians besieged the Home Secretary. 'No man in his senses would have been so cruel; and there was his conduct in the dock: he was so wild, so incoherent. There was also his conduct in the field where he had committed the deed: he called the attention of the passers-by to his having killed her.' And, last of all, 'there was the doctor whom the Home Secretary had consulted after the trial.'

I was appealed to, and stated my opinion honestly: that I had closely watched the man at the trial, and was satisfied that he was shamming insanity.

And he shammed it so awkwardly that there was no doubt whatever in my mind that he was sane.

Another Judge was asked about the case who saw only the evidence, and he came to the same conclusion, and I was compelled to report that the doctor who certified that he was insane did so *without having*

seen him as the doctors for the prosecution had at the trial and before.

He was hanged.

I mentioned some time ago a case of breach of promise of marriage, in which, appearing for the plaintiff, I mistook a gentlemen sitting in court for the defendant. I remember the converse of that case which occurred some years previously, I think at Hertford, but am not certain. Breaches of promise are, after all, but sorry specimens of advocacy, and to counsel are monotonous exhibitions of human weakness. I told this story at the dinner after the trial just recorded.

A farmer, not very polished and by no means handsome or attractive, but possessed of a good deal of money, made love to a middle-aged spinster, who was, probably, more anxious for damages than for the farmer himself.

I was counsel for the defendant, and, desiring to see my client in court so that I might point him out to the jury by way, if possible, of lessening the damages, as appearances in these matters go a long way with the jury, I desired the solicitor to place him in the most conspicuous part of the court, so that they might have a view of him.

In all County Assizes a breach of promise case fills the court with crowds of young and old. They come, no doubt, to laugh at two people who have made fools of themselves out of court, and who will be made bigger fools of in court.

It so happened that when the time came for the solicitor to point out the defendant to me, by some unaccountable blunder he directed my attention, as

I thought in the hurry of the moment, to a well-dressed, good-looking man of fifty or sixty years of age. Nobody could look a more desirable partner for a spinster not far behind in years.

I, of course, immediately referred to him as a gentleman who looked the very soul of honour, and said there must be some mistake on the part of the lady, for had such a man made a promise he would never have broken it, and especially to so attractive a lady as the plaintiff.

I was thus, as I thought, getting on very well with the avoidance of the promise. I saw the gentleman get very red now and then as all eyes were focussed on him, and the more he blushed the more the people laughed; but suddenly my solicitor in a state of great agitation, rose and whispered:

'You are talking about the wrong man, sir; that gentleman is not the defendant.'

'Where is he, then?' I asked aloud amidst a scene of amusement I had never seen before in any court, the Judge enjoying it as much as anyone. 'I told you to put him where I could see him.'

He then pointed to a vulgar, common, dirty-looking gipsy man in an old greasy suit of farm-labourer's clothes, with his cord trousers worn threadbare, and fastened up below the knees with hay-bands, which at that time with day-labourers about a farm was a very common thing. But what amused me more than anything was a yellow handkerchief round his neck.

'What!' I said, 'is *that* the man? Let him show himself to the jury.'

The man came from his seat and stood up in front

of the jury-box, looking as solemn as a man in the stocks, while everybody else was laughing.

It was clear my former line of advocacy was gone, and I believe the Judge laughed at me; at all events, he laughed with me.

With a change of defendant, of course my only chance was an entire change of defence. This man might be the honourable man I had painted, the gentleman with the apple-cheeked face and bald head, but he did not look it, and instead, therefore, of my directing the jury's attention to the internal merits of the man, the best thing was to point out the external elements of his appearance.

I was sorry to have to refer to the poor defendant's clothes, but it was necessary to show that the spinster had lost nothing, so far as appearance went, by not having the pleasure of walking about the town with him as her husband.

I remember very well describing his neck-cloth as an old hay-band, and asking the jury, to the best of my ability, in the way of pleasantry and ridicule, whether they did not think the spinster lady had not had a lucky escape from being bound to such a man in holy wedlock.

They took this view, and found a verdict for £35, which was very far below what we would have given before trial to settle the case.

It was a very pleasant party at the Judge's lodgings that evening, and I was induced by way of entertainment to tell another story or two of my earlier days. There is a limit even to a Judge's experiences, and, although I can never reach it by memory, I am sometimes lost in the devious windings through which

I am retracing my steps into what seems to be an infinite past.

Fresh memories recur at every step, which, bringing back old friends, are ever pleasant, and when humorous incidents are brought to my recollection, I am instantly transported to the occasion of them.

I told them of a good old prosaic Roman Catholic priest giving evidence as to the value of a chapel and premises a railway company was taking, while I appeared for the company.

In my cross-examination I adopted the line of respectful flattery, and thought I was getting on very well, for the priest was as affable as I was; he seemed to agree with all I said, until the thought seemed to strike him that he was rather giving his people away. Then he turned upon me, and, looking up with a grave and demure countenance, said:

'Please, Mr. Hawkins, pay me less compliments and more money!'

An incident like that gives me pleasure even after so many years, because it showed the priest's appreciation of my mode of dealing with the case. But I am bound to say his clever observation did no harm to the chapel, and I liked him for it; but I immediately took another line in my conversation with him, and ultimately, by allowing him to argue as to his opinion of the value of the edifice, I got the jury to take a proper view of my own.

One of my guests then reminded me of a singular insurance case, which I may as well insert.

Fire insurance companies are more exposed to fraud than almost any other. They vainly endeavour to protect themselves by conditions in their policies

against rogues; it is bad in their own general interests even to fight a rogue when they are sure of him. An insurance office that drags its customers into a law-court rather than pay the amount they have insured for does not tempt others to come to them. Consequently unjust claims are continually coming in, and in many instances satisfied.

But there are times when it is necessary even for an insurance office to resist, and I was retained in one of them for the company. The plaintiffs in the action were clothiers who sold ready-made clothes, and their premises having been burned down, they made an enormous claim against the insurance office, and alleged as a part of it that they were possessed, when the fire took place, of a very large number of suits of clothes.

Without the smallest apparent object I elicited that there were piles on piles of trousers, and nearly all of them had brass buttons. Ready-made clothes in this firm had all brass buttons, as a rule.

Having elicited this, I pointed out that, although the most careful sifting of the débris had taken place, not a button had been found, and had the trousers been there innumerable buttons must have remained amongst the salvage.

The trial was not concluded on that day, and on the following morning hundreds of buttons, partially burnt, were brought into court by the Jew plaintiffs.

Cockburn, Chief Justice, was not long in appreciating this mode of furnishing evidence after its necessity had been pointed out, and he asked:

'How do you account for these buttons, Mr. Hawkins? You said none were found'

'Up to last night, my lord, none had been found.'

'But these buttons have evidently been burnt in the fire. How do they come here?'

'On their own shanks, my lord.'

Cockburn agreed, and so did the jury, on a verdict for the defendants. S. Joyce, Q.C., was my opponent.

CHAPTER LI

THE ST. NEOTS CASE

As my first great trial has been mentioned, it is proper to refer to the last trial for murder that I presided over. The object is not to show the horrible details of the deed, but my own mode of dealing with the facts, for it is in the elimination of the false from the true that the work of a Judge must consist, otherwise his office is a useless form. I shall give this case, therefore, more in detail than I otherwise should.

This last great case of murder was that of Horsford, in the year 1898, at Huntingdon Assizes. Speaking now, long after the event, the murderer was not improperly described by the *Daily News* as the greatest monster of our criminal annals, and yet even in that case some kind-hearted humanitarians said I had gone quite *to the limits of a Judge's rights* in summing up the case. Let me say a word about circumstantial evidence. Some writers have spoken of it as a kind of 'dangerous innovation' in our criminal procedure. It is actually almost the only evidence that is obtainable in all great crimes, and it is the best and most reliable.

You may draw wrong impressions from it, I grant, but so you may from the evidence of witnesses where

it is *doubtful;* but you cannot fail to draw the right ones where it is not. If it is capable of a wrongful inference a Judge should be absolutely positive in his direction to the jury not to draw it.

I have witnessed many great trials for murder, but do not remember one where there was an eye-witness to the deed.

How is it possible, then, to bring home the charge to the culprit unless you rely on circumstantial evidence? Circumstantial evidence is the evidence of circumstances—facts that speak for themselves and that cannot be contradicted. Circumstances have no motive to deceive, while human testimony is too often the product of every kind of motive.*

The history of this case, in my mind, is extremely

* 'The St. Neots murder,' said an article in a newspaper containing a report of the trial, 'belongs to the category of sordid and brutal crimes, and will be forgotten before the day of execution comes, unless the Home Secretary decides that the extreme penalty of the law shall not be carried out, on the strength of evidence which, damning as it is, is still circumstantial.'

Mr. Hawkins, Q.C., has shown himself to us as an advocate; the cases that are here and there to be spoken of will be for the purpose of showing him as a Judge. It is not for the sake of the materials, sordid enough, but the workmanship, for which they are introduced into these pages. As he worked out his case from the evidence as an advocate, so he worked it out for the jury when he was a Judge, and knew so well how to unmask villainy that it was a pleasure to do so. He always seemed to understand the construction of every fraudulent plot, and could piece together the whole scheme so as to make it visible to the jury. The verdict was then a foregone conclusion.

This St. Neots case is a mere illustration of the work so accomplished, and a man who was guilty might well say it was all over with him if Hawkins was to try the case.—R. H.

simple. The accused, Walter Horsford, aged thirty-six, was a farmer of Spaldwick. The person said to have been murdered, Annie Holmes, was a widow whose age was thirty-eight years. She had resided for several months at St. Neots, where she died on the night of January 7. She had been married, and lost her husband thirteen years ago. On his death he left two children, Annie and Percy. The latter was sixteen years of age and the girl fourteen. The prisoner was a cousin of the deceased woman. While she lived at Stonely the man had been in the habit of visiting her, and had become an intimate member of the family.

In the month of October the prisoner was married to a young woman named Bessie ——. The widow with her two children, and a third, which it would be idle affectation to suggest was the offspring of her late husband, went to reside at St. Neots in a cottage rented at about £8 a year. The prisoner wrote to Annie Holmes on at least two occasions.

Towards the close of the year Annie Holmes suspected herself to be pregnant. She was anxious not to bring another child into the world, and had some communication with the prisoner on the subject.

On January 5 he wrote to her that he would come and make some arrangement. The woman was deceived as to her condition, but that made no difference with regard to the crime. The letter went on to state: 'You must remember I paid you for what I done. . . . Don't write any more letters, for I don't want Bessie to know.'

On December 28 he purchased from a chemist to whom he was a stranger, and who lived at Thrapston,

a quantity of poison, alleging that he wanted to poison rats. Prisoner called in a gentleman as a reference to his respectability, as the chemist had refused to sell him the poison without. At last a small parcel was supplied. It was entered in a book with the prisoner's name, and he signed the book, as did also the gentleman who was his introducer. The poison was strychnine, arsenic, prussic acid, and carbolic acid. No less than 90 grains of strychnine were supplied. He had written, as I said, to say he would come over on the Friday which followed January 5. There is no reason to suppose he did not fulfil his promise. On the Friday the woman was suffering from neuralgia. In the evening, however, she was in her usual health and spirits, and did her ironing up to eight o'clock. She went to bed between half-past nine and ten. She took with her a tumbler of water, an unusual circumstance. In ten minutes the little girl and her brother went up to bed. They went to the mother, who was in bed with her child. The tumbler was nearly empty. The mother asked for a 'sweet,' which the little girl gave. After this Annie got into bed; the mother began to twitch her arms and legs, and seemed in great pain. Dr. Turner was sent for, as she got worse. His assistant, Dr. Anderson, came, and, watching the patient, noticed that the symptoms were those of strychnine poisoning. She was dying. Before he could get to the surgery and return with an antidote the woman was dead! She who had been well at half-past nine was dead before eleven!

The police were communicated with, and a constable searched the house. Turning up the valances of the bed, he found a piece of paper crumpled up; this was

sent to an analyst on the following day. An inquest was held and a post-mortem directed.

Horsford at the inquest swore that he had never written to the deceased or visited her.

On the evening of Saturday the 8th, after the post-mortem, Mrs. Hensman and another woman found between the mattress and the bed a packet of papers. These were also submitted for analysis. One of them contained 35 grains of strychnine; another had crystals of strychnine upon it. There was writing on one of the packets, and it was the handwriting of the prisoner; it said, 'Take in a little water; it is quite harmless. Will come over in a day or two.' On another packet was written: 'One dose; take as told,' also in the prisoner's handwriting.

The body had been buried and was exhumed. Three grains of strychnine were found by the county analyst in such parts of the stomach as were submitted to him. Dr. Stevenson took other parts to London, and the conclusion he came to was that at least 10 grains must have been in the body at the time of death, while ½ grain has been known to be fatal.

There was a singular circumstance in the defence of this case, one which I have never heard before or since, and that was a complaint that the counsel for the prisoner was 'twitted' by the Crown because he had not called *evidence for the defence.* The jury were solemnly asked to remember that if one jot or tittle of evidence had been put forward, or a single document put in by him, the prisoner's counsel, he would *lose the last word on behalf of the prisoner!* Of course, counsel's last word may be of more value than some evidence; but the smallest 'jot or tittle' of

evidence, or any document whatever that even *tends* to prove the innocence of the accused, is of more value than a thousand last words of the most powerful speaker I have ever listened to. And I would go further and say that evidence in favour of a prisoner should never be kept back for the sake of the last word. It is the bounden duty of counsel to produce it, especially where evidence is so strong that no speech could save the prisoner. Neither side should keep back evidence in a prisoner's favour. I said to the jury :*

'We are assembled in the presence of God to fulfil one of the most solemn obligations it is possible to fulfil, and I will to the best of my ability assist you to arrive at an honest and just conclusion.

'The law is that if a man deliberately or designedly administers, or causes to be administered, a fatal poison to procure abortion, whether the woman be pregnant or not, and she dies of it, the crime is wilful murder.

* Sir Henry's summing up was such as to present the evidence in its proper aspect to the jury, and, singular as it is, when a point is placed by a Judge in its true character and relationship, and damning evidence is commented upon, it is at once concluded by those who seem to think all prisoners should escape the penalty of their crimes that the *Judge has turned advocate.*

The Judge omitted purposely a statement made by the dying woman, '*because she may not have realized the condition in which she was.*' He might have admitted it, but refused out of leniency to the accused.

The summing up in this case is all that I need call attention to, and to that as a matter of art, which brought out the truth and rendered a miscarriage of justice impossible. Nothing can so much detract from the dignity of justice as weakness in its administrator, but he is always the weakest who poses as a strong one.—R. H.

'You have been asked to form a bad opinion of this deceased woman, but she had brought up her children respectably on her slender means, and there was no evidence that she was a loose woman. It more than pained me when I heard the learned counsel—*instructed by the prisoner*—cross-examine that poor little girl, left an orphan by the death of the mother, with a view to creating an impression that the poor dead creature was a person of shameless character.

'Again, counsel has commented in unkind terms on the deceased woman, and said the prisoner *had no motive* in committing this crime on a woman whom he valued at half a crown.

'He might not, it is true, care half a crown for her. It is not a question as to what he valued the woman at; we are not trying that at all; but it showed there *was* a motive.

'I have not admitted a statement which the woman made while in her dying state because she may not fully have realized her condition. Probably you will have no doubt that by whomsoever this fatal dose was administered, there is only known to medical science one poison which will produce the symptoms of this woman's dying agonies. One thing is surprising at this stage: that immediately after death the door of the house was not locked, and while the body was upon the bed a paper of no importance was found, and that afterwards several relatives went in. The object of the cross-examination was to show that some evil-disposed person had entered the house and placed things there *without any motive.* But, whoever may have gone into that house, there was one person who *did not go*—one who, above all others, owed the

deceased some respect—and that is the prisoner; and unless you can wipe out the half-crown letter from your mind, you would have expected a man on those intimate terms with the poor woman to have gone and made some inquiries concerning her death. He did not go; he was at the Falcon Hotel at Huntingdon, and a telegram was sent telling him to fail not to be at the inquest.

'At the inquest he told a deliberate lie, for he swore he had never written to the woman, or sent her anything, or been on familiar terms with her. He had written to her, and if his letter did not prove familiar terms, there was no meaning in language.

'With regard to the prisoner's alleged handwriting on the packets and papers found under the woman's bed and elsewhere, I must point out to you that here is one on which is written, "Take in a little water. It is quite harmless. Will come over in a day or two."

'This was written on a buff paper, which Dr. Stevenson said must have contained 35 grains of strychnine, sufficient to kill thirty-five persons, and the direction written was, "One dose; take as told."

'These inscriptions were sworn to by experts as being in the prisoner's handwriting.'

Here I pointed out the alleged resemblances in the characters of the letters so that the jury might judge if the prisoner wrote them.

'If the prisoner wrote the words "take as told," you must ask yourselves the meaning of it.

'Also, you will ask whether it was not a little strange that the death occurred on that very Friday night when he said he would go over and see her. Again, the word "harmless" is of the gravest character, seeing

that within the folds of that paper were 35 grains of a deadly powder, which even for rat-powder would be mixed with something else.

'Again, as to motive, upon which so much stress has been laid by the defendant's counsel. If the prisoner had no motive, who else had? Is there a human being on earth who had ill-will towards her, or anything to gain by her death? The learned counsel carefully avoided suggesting anyone; nor could he suggest that anyone in the neighbourhood wrote the same hand-writing as the prisoner. I will dismiss the theory that someone had imitated the prisoner's writing in order to do him an injury, and ask if you can see any reason for anyone else giving this woman the powder?

'There is one fact beyond all dispute: in December the prisoner bought a shilling's worth of strychnine. He said he bought it for rats, but no one on the farm had been called to prove it. What has been done with the rest of the powder?

'Where was he on that Friday? His counsel said he could not prove an *alibi*. But if he was at Spaldwick after saying he was going to St. Neots to see this poor woman, he *could* have proved it.

'The prisoner's counsel said that the accused did not speak of the woman's murder after the inquest, and said it was not necessary; he did not understand the "familiar jargon" of the Law Courts.

'The familiar jargon of the Law Courts, gentlemen, is not quite the phrase to use with reference to our judicial proceedings. The Law Courts are the bulwark of our liberties, our life, and our property. Our welfare would be jeopardized indeed, if you dismiss what takes place in them as "familiar jargon."

'The question is whether the charge has been so reasonably brought home to the prisoner as to lead you in your consciences to believe that he is guilty. If so, it is your duty to God, your duty to society, and your duty to yourselves to say so.'

Such was the summing up that was arraigned by the humanitarian partisans of the prisoner. If a Judge may not deal with the fallacies of a defence by placing before the jury the true trend of the evidence, what other business has he on the Bench? And it was for thus clearly defining the issue that someone suggested a petition for a reprieve, on the ground that the evidence was *purely circumstantial*, and that my 'summing up was against *the weight of the evidence.*' Truly a strange thing that circumstances by themselves shall have no weight.

But there was another strange incident in this remarkable case: *the jury thanked me for the pains I had taken in the case.* I told them I looked for no thanks, but was grateful, nevertheless.

I have learnt that the jury, on retiring, deposited every one on a slip of paper the word 'Guilty' without any previous consultation, a sufficient indication of their opinion of the *weight* of the evidence.

This was the last case of any importance which I tried on circuit, and if any trial could show the value of circumstantial evidence, it was this one. It left the identity of the prisoner and the conclusion of fact demonstrable almost to mathematical certainty.

A supposed eye-witness might have said: 'I saw him write the paper, and I saw him administer the poison.' It would not have added to the weight of the evidence. The witness might have lied.

CHAPTER LII

A FRENCH REPORT OF A CASE SUPPOSED TO BE TRIED BEFORE 'M. HAWKINS'—THE BAR OUTWITTING THE JUDGE

THE reader of these reminiscences may like to know the opinion of French writers on 'M. Hawkins, le juge,' and the mode of procedure in our criminal courts. I give the following extract from a French paper, which was forwarded to me when on the Bench.

I am not able to state the name of the place where the case was tried, nor the names of the counsel engaged. Nor can I, as the reader may imagine, afford any information on the subject. It is the only occasion in which I have found my memory at fault.

The trial seems to have created as much agitation in France as the *Grand Prix*, and the discussion which was carried on in every café and elsewhere is spoken of as '*fiery*.'

That is all I can say by way of introduction, and I am very pleased to be able to give this opinion of my conduct from a French authority.

'UN PROCÈS ANGLAIS.

'JEUDI,
'24 *Mars*, 1898.

'Nous avons dit plus haut que l'acquittement de Mlle. Ménard avait rencontré l'approbation générale

non seulement en France, mais encore à l'étranger. En Angleterre, on cite à l'occasion de cette affaire, un procès qui fit grand bruit, il y a quelques années. Le correspondant du *Temps* à Londres transmet à ce journal le récit de ce jugement mémorable. Nous le reproduisons textuellement ; c'est une page à conserver :

'Dans l'hiver de 1890, un boulanger de la Cité se trouvait seul dans sa boutique lorsqu'il reçut la visite d'un camarade qui l'invita à boire un quart de Scotch whisky au public-house voisin. Il y consentit en songeant que, du débit de boissons, il lui serait possible de surveiller l'entrée de son magasin.

'Comme il trinquait depuis dix minutes, il aperçut rôdant devant sa porte un grand gaillard maigre, déguenillé, qui semblait vouloir s'assurer qu'il n'y avait personne à l'intérieur, passait et repassait devant la porte, s'approchait des vitrines, inspectait et guettait une occasion. Après une minute d'hésitation, l'homme épié se décida. Il entra dans la boutique, le temps d'un éclair, et en sortit immédiatement en cachant sous les haillons de sa veste un gros pain rond de quatre livres.

'Il ne put franchir dix yards sur la chaussée. Le boulanger et son ami étaient sortis du public-house, avaient appelé d'un geste le policeman qui remontait la rue. L'homme fut arrêté en flagrant délit. Le lendemain il comparaissait devant la cour où l'on avait fait citer, conformément aux exigences de la loi anglaise, le boulanger, son ami and le policeman qui avait été requis d'opérer l'arrestation. Ce fut lugubre.

'L'homme, un nommé Smith Adams, avouait. Parbleu ! Les témoins constataient les faits de la veille. Le juge Hawkins parla enfin pour interroger le représentant de la police.

'" Hier, après l'arrestation, vous êtes-vous occupé de réunir des renseignements sur le prisonnier ? Quels sont ces renseignements ?"

' " Le prisonnier est un très brave homme qui n'a jamais subi aucune condamnation, a toujours travaillé avec courage et est cité comme un modèle de sobriété. Il soutient de son travail sa mère, sa femme, une sœur cadette et une petite fille de trois ans. Il y a six mois, le patron chez lequel il travaillait depuis cinq ans a été mis en faillite. Alors le prisonnier a cherché du travail sans en trouver et a dû mettre en gage tout ce qu'il possédait. Avant-hier, on n'a pas mangé chez lui, hier non plus."

' " Vous êtes sûr de tout cela ?"

' " Parfaitement sûr. Du reste, tous ses voisins sont ici pour déposer en sa faveur."

' Le juge Hawkins prononça aussitôt :

' " Le prisonnier est acquitté."

' Puis s'adressant à l'homme stupéfait :

' " Smith Adams," ajouta-t-il, " il est incontestable que vous avez volé, pourtant. Et le vol est un crime, qu'il s'agisse d'un morceau de pain ou d'une montre en or. C'est la même chose au point de vue de la loi. Si donc je n'écoutais que mon devoir de magistrat je devrais, j'aurais dû vous condamner à la prison. Mais la loi est souvent inintelligente et brutale. J'ai préféré écouter ma conscience d'homme et vous acquitter tout de suite, d'un élan, afin qu'il n'y eût plus à y revenir. Il me reste maintenant à obéir à ma conscience et voici ce qu'elle me commande."

' Le juge se fit apporter son chapeau, y déposa une demi-livre sterling et chargea son clerc de faire passer ce chapeau parmi les solicitors, les avocats, la foule. Une collecte s'improvisa qui produisit immédiatement plus de 100 francs. L'argent fut remis à Smith Adams que la stupeur et la joie rendaient imbécile, et qui sortit du " dock " pour prendre sa course à toute vitesse à travers la foule qui s'écarta spontanément pour lui livrer passage. Cela sans un remerciement, sans un mot, l'esprit et le cœur tendus vers la mère, la sœur,

la femme, l'enfant attendant du pain depuis l'avant-veille. Quand il fut sorti :

' "Amenez-moi le boulanger," ordonna M. Hawkins.

' Le volé s'empressa de monter vers la logette des témoins, mais le juge fit un autre signe et l'on vit un policeman pousser le boulanger dans le "dock" des prévenus.

' "Prisonnier," lui dit le juge, "vous n'avez pas reculé à faire jeter en prison un malheureux qui vous avait pris un pain de quelques pence et dont l'aspect misérable vous disait assez l'effrayante détresse. Vous l'exposiez à être condamné comme voleur, à être déshonoré à tout jamais, et vous avez fait cela, vous, gras et bien nourri, parce que vous vous êtes imaginé que vous étiez dans votre droit.

' "Vous étiez, en effet, dans le droit, mais vous n'étiez pas dans la justice, vous n'étiez pas dans l'humanité. J'aurais pourtant usé d'indulgence à votre égard si, tout à l'heure, tandis que chacun ici fouillait sa poche pour en sortir quelque monnaie pour cet homme, je ne vous avais vu laisser passer le chapeau sans y rien mettre. Vous n'avez pas eu pitié de celui qui avait faim, je n'aurai pas pitié de vous. Une loi édictée par la reine Elisabeth condamne tout boutiquier convaincu d'avoir abandonné sa boutique à un jour de prison, parce que, par le seul fait de cet abandon, il excite les affamés à la tentation. Par application de cette loi, je vous condamne à un jour d'emprisonnement et aux frais de l'instance. Puisse ce jugement devenir une leçon pour les gens qui manquent de cœur !"

' Et le soir même, tandis que le voleur rentré dans sa famille s'achetait pour lui et les siens du pain, du charbon, des couvertures de laine, le boulanger volé hurlait dans une cellule de la prison d'Holloway en vitupérant la grande Elisabeth.

' Ce n'est pas la première fois que l'on trouve de semblables exemples dans les jugements de la justice anglaise.

'Nous recommanderions aux Méline, Milliard et consorts les paroles du juge Hawkins, s'ils étaient capables de les comprendre!

'OLIVIER PAIN.'

This article was sent to me by post, accompanied with the following letter, which adds little, perhaps, to the humour of the proceedings. It is addressed 'Mr. Justice Hawkins, London,' and is dated, '*From Old England, Paris*, March 23, 1898:

'MY LORD,

'To settle a discussion, would your lordship be good enough to give me the confirmation direct that the article which is enclosed, and which asserts that your lordship once let off a man who stole a loaf to save himself and his family from starving, and sent the baker who charged him one day to prison, is correct? I am sorry to trouble your lordship about this matter, but it has become quite a *fiery affair*, and there is money for the poor in it if it is true, as I maintain it is.

'I am, my lord,

'Yours very sincerely,

'JOHN BRAY.

'SIR HENRY HAWKINS.'

So much for John Bray; the natural result being that he got no answer.

[Sir Henry never liked to be without a goodly number of the Bar in court. Most of them were his old friends, and he was theirs; but speaking impartially, there was too much of a spirit of mischief in keeping them penned up like sheep between hurdles. If you asked that the parties and witnesses in a case, say *three or four off*, at the rising of the court for lunch might go, it was

the certain mode of keeping them there. At Assizes this was particularly the case, and every application was refused—yet not refused, because he would say, 'If you think it is certain not to be reached, you may of course take your chance.'

A somewhat humorous scene took place at Nottingham on an occasion which he never forgot. An indefatigable worker on circuit, he seemed to have the constitution of the Wandering Jew and the energy of radium. There was no doubt that he had much more patience than was necessary, for it kept him sitting till the small hours of the morning, and jurors in waiting and attendants were asleep in all directions. He was the only one wide awake in court.

Even javelin-men, selected for their prowess and staying powers, fell asleep with their spears in their hands; the marshal dozed in his chair, ushers leaned with their backs to the pillars supporting the gallery, and sometimes snored; while witnesses just waking up mounted the witness-box and rubbed their eyes.

Such was the state of affairs one night at Nottingham when Sir Henry gave the Bar a taste of this divine gift of patience, and the Bar gave him a lively example of their excellent gift of endurance. A case of trifling importance was proceeding with as steady a pace as though an empire's fate, instead of a butcher's honour, in a matter of slander by another butcher, were involved.

The art of advocacy was being exercised between an Irishman and a Scotchman, which made the English language quite a hotchpotch of equivocal words and a babel of sounds.

The butcher's slander was one that seemed to shake the very foundations of butcherdom throughout the world, namely, an insinuation that the plaintiff had sold Australian mutton for Scotch beef—on the face of it an extraordinary allegation, although it had to find its way for the interpretation of a jury as to its mean-

ing. Amidst this costly international wrangle the Judge kept his temper, occasionally when the combatants flagged a little for want of breath cheering them on by saying in an interrogative tone, 'Yes?' and in the meanwhile writing the following on a slip of paper which he handed to a friend:

'GREAT PRIZE COMPETITION FOR PATIENCE.

Hawkins	- -	First prize.
Job	- - -	Honourable mention.'

I ought to have said that much earlier in the evening, about five o'clock, an application had been made by way of testing how far the Judge 'would go,' like the man with a hammer testing the wheels of an express when it stops for a moment in the station. Every wheel had a good ring. He was prepared for a long run. Every case was to be struck out if the parties were not here. His lordship had come from London to do what he could for Nottingham, and Nottingham should have the benefit of his services. Try the cases he would. It was quite enough to pin every witness to the court.

After awhile a feeling of compunction seemed to come over him, as though he had unadvisedly said something which he wished to recall.

'One moment,' said he, after the case in hand had proceeded for an hour or so. 'This case seems as if it will occupy some time; it is the last but three of the common jury cases, and—I mean to say—if the gentlemen of the special jury like to go till—seven o'clock this evening, they may do so, or they may amuse themselves by sitting in court listening to this case.'

There was a shuffling of feet and a murmur like that of bees.

'Gentlemen,' he said, 'do whatever will be most agreeable to yourselves. I only wish to consider your comfort and convenience.'

'A damned pretty convenience,' I heard one special juryman mutter, 'to be kept here all night!'

But that is neither here nor there.

'Return punctually at seven, gentlemen, please; you are released till then.'

Any person who knows Nottingham and has to spend in that city two weary hours, between 5 o'clock and 7 p.m., wandering up and down that vast market-place will understand the state of mind to which those special jurymen were reduced when they indulged in audible curses.

There was, however, an element in this condition of things which his lordship had not taken into consideration, and that was the *Bar*, and I mention it with the pleasanter feeling because it is not a hear-say story I am telling, but a circumstance I witnessed.

Several members were unnecessarily detained by this order of the court. The Judge knew well enough that the barristers would have their dinner at seven. Their mess was at the George Hotel; at seven they must be in court or within its precincts. They chose the precincts, and, sending for their butler, ordered the Bar mess to be brought to the vacant Judge's room, the second Judge having gone away.

The idea was excellent, and the fun of the evening was provided for. How little dreamed Sir Henry of the surprise that awaited him! Had he known of it he might have countermanded the order so far as the Judge's room was concerned, but he would no more have thought of doing so than he would have ordered us into custody for contempt of court. He annoyed us because he loved us. It was the merest mischief, and we treated it as such. The question arose, should we invite him to our mess? Prudence prevailed. The Bar did not wish to triumph, but only to have its dinner, and wait till he chose to adjourn. At seven the mess was provided, and those who were not

engaged in court sat down with a good appetite and a feeling of delightful exultation.

Meanwhile his lordship proceeded with his work. While the temperature was 84°, he alone of all the people in court was cool. Juries wiped their faces, and javelin-men leaned on their spears.

Now and then the sounds of revelry seemed to break upon the ear as a door was opened and then hurriedly closed so as to shut out the draught. The doorkeeper knew what was going on in the absent Judge's room.

At ten his lordship rose for a few moments, and on proceeding along the corridor towards his room for his cup of tea, the sounds attracted his ear, and, on turning round, several champagne bottles stood boldly in line before his eyes. He also saw two pairs of legs adorned with yellow stockings near the champagne bottles—the legs of the Sheriff's footmen who were waiting to attend his lordship's carriage some hours hence, but at what moment no human being could say.

His lordship smiled; the scene recalled the scenes of other days, and the old times of the old Home Circuit came back. Should he adjourn and join the mess? No, no; he must not give way. He had his tea and went back to court, a sadder but not a wiser man. His young friends—all were friends of Hawkins—when the fiat had gone forth condemning them to a night's imprisonment without food, roused the spirit of rebellion. They were now enjoying themselves. He was not very well pleased with the cross-examination of the Irish advocate.

'Do you want the witness to contradict what he has said in your favour, Mr. ——?'

'No, my lord.'

'Why do you cross-examine, then?'

Counsel looked in from the mess-room now and again to see how things were going, and returned to their festivities. The catch of an old circuit song

reached Sir Henry, one that he had heard in the old times.

'Call your next witness, Mr. Jones. Why was not this trumpery case tried in the County Court?'

(Sounds of revelry from the Bar mess-room.)

'Keep that door shut!' says the Judge.

'May the witnesses go in the third case after this, my lord?'

'I don't know how long this case will last. I am here to do the work of——'

('*Jolly good fellow!*' from the mess-room.)

'Keep that door shut!' says Sir Henry.

'What is your case, Mr. ——?'

'It's slander, my lord; one butcher calling another a rogue, similar to the present case.'

'Does he justify?'

'Oh no, my lord.' It was now on the stroke of twelve. 'I don't know at what time your lordship proposes to rise.'

'Renew your application by-and-by. This case cannot occupy the time of the court much longer.'

('*We won't go home till morning!*' from the mess-room.)

'Keep that door shut! How many more witnesses have you got, Mr. Williams?'

Mr. Williams, counting: 'About—ten—eleven——'

'And you, Mr. Jones?'

'About the same number, my lord.'

It was twenty minutes to one.

'I shall not sit any longer to oblige anyone,' said Sir Henry, closing his book with a bang.

The noise woke the usher, who was fast asleep at his post immediately under the jury-box; and soon after the blare of trumpets announced that the court had risen, as some wag said, until the day after yesterday.

The Bar mess sat for some time longer, and some of them afterwards were invited to *dinner* at the Judge's lodgings.

This was a real occurrence, and the Judge was as much pleased with the fun as anyone.

A newspaper reporter speaks in these terms of Sir Henry's sittings at another circuit town, which seems to have been shorter than usual:

'The engineers embarked on a disastrous strike because their working hours were more than eight: what about a Judge who works *thirteen* hours a day when there is work to do? This was Sir Henry Hawkins' working day at Bristol Assize Court this week. He began his duties at ten in the morning and sat until eleven at night, certainly a good spell of work for a Judge in his eightieth year.'

Another record of his work at Lincoln is the following:

'It was a picturesque scene while Mr. —— was pouring out his eloquence to the jury on behalf of a prisoner charged with murder. The court was half in darkness, for only one solitary wax candle in front of the Judge illuminated the court, the back of which was in deep shadow. The prisoner was allowed to be seated, and could scarcely be seen. Mr. ——, his counsel, took the impassioned line; his appeal was powerful, and full of play upon the emotional feeling of the jury, who sat and listened to him as though spellbound. He spoke for less than half an hour, evidently with a desire of getting a verdict that night.

It was a successful speech, and the prisoner went home.

If there was a loophole of escape Sir Henry Hawkins always gave the prisoner the benefit of it.]

CHAPTER LIII

HOW A JUDGE GOES CIRCUIT

EVER since the establishment of itinerant justices, now considerably over seven hundred years, going circuit has been an interesting and important ceremony, attended with great pomp and circumstance. I had intended to give a sketch of my own drawing of this great function, but an esteemed friend, who is a great lover of the picturesque, has sent me an interesting description of one of my own itineraries, and I insert it with the more pleasure because I could not describe things from his point of view, and even if I could, might lay myself open to the charge of being egotistical. I therefore give his communication in his own words:

'When Sir Henry Hawkins stepped into the train with his marshal, he felt all the exuberance which a Judge usually feels on going circuit, not so much on his own account as on that of the public. He experienced none of those nervous agitations which some have been overcome by, and which led one of Her Majesty's Judges to say there was no position so dignified as a Judge on circuit, and which caused another to remark: "The footman on my Lord Mayor's State carriage is inspired with the same feeling."

'Going circuit is a pleasant diversion, and may be made a delightful holiday when the weather is fine and

cases few. I am not speaking of those northern towns where hard labour is the portion of the judicial personage from the time he opens the Commission to the moment when he turns his back upon his prison-house, but of rural Assize towns like Warwick and Bedford, or, if you will, Oakham, where the Judge nine times out of ten takes his white gloves, smiles at the grand jury, congratulates them on the state of the calendar, and goes away to some nobleman's seat to enjoy the country sports and amusements until such time as he is due to open the Commission in some other paradise where crime does not enter.

'But if I place Oakham at one end of the circuit system and Leeds or Manchester at the other, and strike an average, you will get a place something like Lincoln was in the old days.

'And there again the sweets of circuit were tasted and enjoyed by Her Majesty's Judges, especially by one who revelled in the "pealing anthem," "God save the Queen," as he walked up the sacred aisle to the Judge's pew. At Lincoln Station on this present occasion there is a goodly crowd, outside and in, some well dressed and some slatternly, some bareheaded out of respect to the Judge, and others of necessity, but all with a look of profoundest awe. Some ladies will be holding up their dresses with dainty touch, others rolling their blue or white aprons round their brown bare arms for convenience.

'But as they wait the arrival of the coming train, their hearts are beating to see the Judge. Alas! for some of them, they will see him too soon and too well.

'Most conspicuous outside the gate is the fat and dignified coachman in a powdered wig and tam-o'-shanter cap, and the powdered footmen with the important calves. Clustered along the platform, and pushing their noses between the palisade fencing, seem gathered together all the little boys of Lincoln—that is

to say, those who do not live at the top of Steep Hill; for on that sacred eminence, the Mount Zion of Lincolnshire, are the *cloisters* and the closes, where are situated the residences of Canons, Archdeacons, and I know not what other ecclesiastical divinities. And the top of this mountain holds no communion with the bottom.

'On the platform—for the signal has been given that the judicial train is entering the station—ranged in due order are the Sheriff of Lincoln, in full robes, his chaplain in full canonicals, and a great many other worthy dignities, which want of space prevents my mentioning in detail. But all are bareheaded; all perfectly motionless save for those bosoms which heave now and again with the excitement of the occasion.

'Although the chaplain and the Sheriff and others hold their hats in their hands, it is well understood in a well-bred town like Lincoln there will be no cheers, but only a deep, respectful silence.

'And so, amid a hush of expectation, and a wondering among the crowd as to whether it's *Orkins*, some saying one thing and some another, the train draws slowly in amid cries of "Keep back!" and then a respectful porter, selected for the occasion, opens the door and out leaps —Jack.

'Then bursts from the crowd a general murmur: "There 'e is! See 'im, Bill!" cries one. "There's Orkins!" (Bill is a little stripling, straining his hardest on tip-toe.) "See 'im? There 'e is; that's Orkins behind that there long black devil!"

'He was wrong about the black devil, for it was the Sheriff's Chaplain, who will preach the Assize Sermon next Sunday in the Cathedral.'

CHAPTER LIV

HOW I MET AN INCORRIGIBLE PUNSTER

As the Midland Circuit was perhaps my favourite, although I liked them all, there would necessarily be more to interest me than on any other, and at our little quiet dinners, for which there was no special hour (it might be any time between eight o'clock in the evening or half-past one the next day), there were always pleasant conversations and amusing stories. With a large circle of acquaintances, from the highest down to the poor dog-finder, I had learnt many things, sometimes to interest and at others to instruct. Although I must say I never sat down to open a school of instruction in the ways of men and women, a man should not despise the humblest teaching, or he may be deficient in many things he should have a knowledge of.

There was once an old fox-hunting squire whose great ambition was to be known as a punster. There never was a more good-natured man or a more genial host than old Squire ——; and he would tell you of as many tremendous runs he had had as Herne the hunter. After-dinner runs are always fine, like the after-dinner fishing, and the after-dinner incomes, and after-dinner 'shop'—always superior to everything in real life. I have known ten times the incomes made on these convivial

occasions than ever the happy individuals made in court, but it serves to amuse, and imagination can always do more for us than fact in that pleasant way.

Well, old Squire —— loved to hunt foxes and make puns. He did both very well, and did little else in the way of amusement except dine.

We were sitting on a five-barred gate one evening, after a long ramble, and were on our way to the Hall to dine. It was in his paddocks, and while I was admiring his yearlings, which were certainly of great beauty, I suddenly saw looking over his left shoulder the most beautiful head of a thoroughbred I ever beheld. It was one of his favourites, if not his first favourite, and her nose was quite close to his ear.

'Halloa, my beauty!' said he. 'What, what! *Saltfish*, let me see if I've a bit of sugar, eh, *Saltfish?*—sugar, eh —is it?'

His hand dived into the capacious pocket of his shooting-coat and fetched out a piece of sugar, which he gave to the mare, and then affectionately rubbed her nose.

'There, there, *Saltfish*—there you are; and now show us your heels.'

I was sure by his mentioning the mare's name so often that there was a pun in it, so I waited without putting any question. After a while, seeing I took no notice, and made no remark on the animal's name, he said (for he could contain his joke no longer):

'Hawkins, do you know why I call her *Saltfish?*'

'Not the least idea,' said I. 'Who christened her?'

'Ha!' he said, with a prodigious stare that almost shot his blue globular eyes out of his head, 'because she is such a capital mare for a *fast day!* Ha, ha!'

Suddenly he stopped laughing from the disappointment at my not seeing the joke. If I did not see the joke it was quite clear it was from no want of his showing it, for he kept repeating it—'fast day, fast day.' Then he *glared at me*, and his underlip fell. I could but think how strangely happiness is distributed; his blue orbs were waiting for my smile with intense expectation, but it never came. They looked till they glistened, and at last drooped in despair, and the old man tossed his head and whipped his boot with his crop. I have no doubt I deprived that man of a great deal of happiness, for if anything is disappointing to a punster it is not seeing the joke. He had not done with me yet, however, and before abandoning me in depair as an incorrigible lunatic with no intellect, he asked if I would like to see Naples.

'What do you say to having a look at Naples, eh—Naples?'

'Naples! Yes, by all means, but not at this time of year.'

'Oh, I don't mean the town—no, no—but if you don't mind a little mud, I'll show you Naples; we shall be in plenty of time for dinner. Come along this lane.'

'Watercourse, you mean.' (But it was not a watercourse then, only a muddy ditch.) 'I don't mind a little mud,' said I; 'it washes off, whoever throws it'—and I looked to see what he thought of that, knowing he would tell it at dinner.

'Good!' said he; 'that's devilish good! I shall tell that at dinner to-night; come along. Wash off,' he murmured, 'no matter who throws it—devilish good!'

Down we came off the gate, and through the mud we went, he leading with a fat chuckle.

'You don't see the joke, Hawkins—you don't see the joke about that fast day;' and then he gave me another look with his goggle blue eyes.

I said I didn't know it was a joke; I thought it was really the mare's name, and I heard him mutter 'Damn!'

'This is the way,' he said, 'to the paddock where Naples is.' This was uttered angrily, but I did not mind, and on we went towards the meadow. We seemed to travel, although slowly, through an interminable cesspool, but at last reached the open, and coming to another gate, on which he extended his arms, after the manner of a country squire, said:

'There! there's *Naples*. Isn't she lovely?'

'Where?' I asked.

'There; there she is, and a prettier mare you never saw. Look at her!'

'Yes,' I said, 'she's a beauty—really a beauty; I like her.'

Then he breathed rather short, and I felt easy. His manner, however, especially the distending of his rosy cheeks, showed me that he was about to bring forth something, but I had not the slightest notion as to what it could be. A pun of some sort, it must be, by the fulness of his cheeks.

'Do you know,' he asked, with another turn of his eyes, '*why* I call her *Naples?*'

'No,' I answered, after a little consideration, 'I haven't the faintest idea. Naples,' said I—'no, no.'

'Well,' he said, 'I thought not. I've puzzled a good many; in fact, I may say nobody has ever guessed it. Well, I'll tell you: I call that mare *Naples* because she's such a beautiful *bay*.'

I was glad I was not sitting on the gate at this epoch in my career, for I might have broken my neck. As it was, I had presence of mind enough not to laugh, and, as I felt his eyes staring at me, preserved a dignified composure, and had the satisfaction of hearing the squire again mutter 'Damn!' as he turned contemptuously away, and said, 'This is our way.'

I have no doubt he thought me the dullest fool he ever came near.

Our adventures, however, were not over. We went on and on, over meadow and stile and watercourse, until we came to what was called, and indeed was, 'The Park,' a tract of land of great beauty and with trees of superb growth. He had, however, nothing to say about trees, or I might have made a suggestion or two for the evening's entertainment. He was sullen and moody, like one whose nerves had failed him when a covey rose. But we trudged along in the homeward direction, I feeling more and more an inclination to be at the dinner-table, where his puns might be better appreciated.

I saw it coming—his last expiring effort. In the distance was a beautiful black mare, such as might have carried Dick Turpin from London to York. He was watching to see if I observed her, but I did not.

Sternly he looked out of his globular eyes with immense interest: 'Don't you see her?'

Again and again I did not observe the animal. He could stand this state of suspense no longer.

'Look here,' he said, in his most coaxing manner, 'don't you see that mare yonder—down there by the spinny?'

'What,' I said, 'on the left?'

'Down there! There, a little to the right. That's a cob you're looking at. Look! There she is.'

'Oh, yes, to be sure, a pretty animal.'

'Pretty! Why, there's no better bred animal in the kingdom. She's by —— out of ——.'

'Indeed! She ought to win the Oaks.'

Again the eyes were turned on me, and I felt their bewitching influence.

'Come, now, *isn't* she superb?'

'A glory,' I said. 'A novelist would call her a *dream*.'

'Ah, I thought you would say so. You know what a horse is.'

'When I *see* one,' I said. 'I thought you said this was a mare.'

This is what the Squire thought:

'Well, of all the dull devils I ever met, you, Hawkins, are the most utterly unappreciative!'

The man was at his wit's end, although you must be clever if you can perceive the wit's end of a punster.

'Shape?' he said.

'Superb.'

'Look at her.'

'Magnificent.'

'Action?'

'Yes, I am going to try a very important one to-morrow.'

'Don't be foolish,' said the Squire; 'you're chaffing —you, who belong to the Jockey Club.'

'Well,' said I, 'you don't learn much about horses there or jockeys either.'

'Well, well, never mind jockey clubs. That's *Morning Star*.'

'Beautiful, beautiful name! delightful name! poetic!'

Now came the climax. He was actually asking himself the question: '*Will* he see this joke, or not?'

'*Morning Star*,' he said again, wishing me to ask why. 'Now, do you know *why* I call her *Morning Star*?'

I answered truthfully I did not, nor do I believe I should ever have guessed it.

'Why,' he said, with a merry laugh, '*because she's a roarer.*'

'What a pity!' I exclaimed; 'but I don't wonder at it if she has to carry you and your jokes very far.'

He took it in good part, and we had a pleasant evening at the Hall. He discharged a good many other puns, which I am glad to say I have forgotten. But there was a man present who was a good story-teller. Some I had heard before, but they were none the less welcome, while one or two I related were as good as new to my host and old Squire Fullerton, who had once been High Sheriff, and was supposed to know all about circuit business. He prefaced almost everything he said with, 'When I was High Sheriff,' so I asked him innocently enough how many times he had been High Sheriff, on which my host, being a quick-witted man, looked at him with a broad grin, while he balanced the nutcrackers on his forefinger.

'Well,' said Fullerton, 'it was in Parke's time.'

'Yes; but which of them?' I asked. 'Are you alluding to Sir Alan? They did not both come together, surely.'

'Now lookee, Fullerton,' said my old friend, tapping the mahogany with the nutcrackers, as though he was about to say something remarkably clever: 'one of 'em,

Jemmy, had a kind of a cast in one of his eyes, didn't he, Judge?'

'Yes,' said I; 'but their names were not spelt alike.'

'No, no!' cried the squire; 'I'm coming to that. One eye was a little troublesome at times, I believe, at least, they said so in my time when I was High Sheriff, and that made him a little ill-tempered at times. Now, that Judge's name was spelt P-a-r-k-e' (tapping every letter with his nutcrackers), 'so the Bar used to call him "*Parke with an 'e'*"; and what do you think they used to call the other, whose name was Park? Come, now, Judge, you can guess that.'

I suppose I shook my head, for he said: 'Why, you told me the story yourself four years ago—ah! it must be five years ago—at this very table, when old Squire Hawley laid two thousand on Jannette for the Leger. "This is it," said you; "they call one of them Parke with an 'e' and the other Park with an 'i.'"'

'Very well,' I said, after they had done laughing at the way in which my host had caught me; 'now I'll tell you what the Duke of Wellington said one morning. You recollect His Grace met with an accident and lost an eye, which was kept in spirits of wine. On asking him how he was, the Duke answered:

'"Oh, Lord Cairns asked me yesterday the same question, and I said, 'I am rather depressed, but I believe my eye is in pretty good spirits.'"'

CHAPTER LV

THE TILNEY STREET OUTRAGE

OUR little party was at Tilney Street.

I had been telling my friends how once upon a time a young counsel was particularly anxious to show how artfully he could examine on the *voir dire*, which one might speak of as preparing a child for understanding the nature of an oath.

'Now, my child,' said the learned counsel, 'do you know where you'll go to when you die if you don't speak the truth?' I interposed by observing that if the little girl knew, it was more than I did, as Maule used to say.

The surprise of the counsel at my remark on that occasion was not less than our own the next moment, for there was one of the most tremendous explosions one ever heard. It seemed as if the world was blown up. But as nothing happened, we did not leave the room, but went on with the conversation.

It was not until the next day it was ascertained that a dreadful attempt had been made to blow in Reginald Brett's front-door, which was a few houses off, and that it had been perpetrated by some Fenians, whose friends had been awarded penal servitude for life for a similar outrage with dynamite. Why their anger was

directed against Mr. Reginald Brett—a most peaceful and excellent man—it was difficult to say, for he was most kind-hearted, and, above all, the son of the Master of the Rolls, who never tried prisoners at all, only counsel.

Having made inquiries the next morning—I don't know of whom—there were such a number of people in Tilney Street surrounding Brett's house, I was absolutely astonished to hear someone say: 'They meant to pay *you* that visit, Sir Henry.'

'Then *they knocked at the wrong house*,' said I.

The stranger seemed to know me, and I had a little further conversation with him. It turned out he was a Chancery barrister and a friend of Brett's.

'Why,' I asked him, 'do you think they meant the visit for me? I am told that Mrs. Brett had just entered the house when it took place. They must have seen her. How could it be for me?'

'Yes,' said he, 'it was, and it caused two holes about 2 inches in diameter to be made in a wall on the *other side of the street*, and several windows to be shattered. It was a clear case of dynamite.'

'Well,' I answered as coolly as I could, 'if it was intended for me, I can only say they were most ungrateful, for I gave their friends all I could.'

Yes, penal servitude for life, all except one of them.

'Very well,' I added, 'if they think they'll frighten me by blowing in Reginald Brett's front-door, they are very much deceived.'

Lord Esher, I believe, always considered that *he* was the object of attack, and as I had no wish to disturb so comforting an idea, took no further notice, and Fenians took no further notice of me. Years after, however, my

name was mentioned in Parliament in connection with this case; nor was my severity called in question.

There were no more explosions in Tilney Street, but a singular circumstance occurred some years afterwards, which placed me in a position, if I had desired it, to deprive Lord Esher of the satisfaction he felt in believing he was the object of so much Fenian attention. But if it was a comfort to him or a source of pride, I did not see why I should take it away.

A Reverend Father of the Roman Church told me that a long while ago a man in confession made a statement which he wished the Father to communicate to me. It was under the seal of confession he told him, and refused, as he was bound to do, to mention a word. The man persisted in asking him to do so, and he as persistently refused.

Some considerable time after, however, the same man went to the priest, not to confess, in accordance with the Church, as a religious duty, but to repeat his request in ordinary conversation. This the Father could have no objection to, and the culprit told him that he had undertaken to place the bomb at the front-door of Number 5, but that through having in the gas-light misread the figure, he had placed it against that of Number 2. He begged the priest as a great favour to assure me on his word that the bomb was certainly intended for me, and not for Brett. However, Lord Esher never gave up his opinion, but maintained that the honour was intended for *him*.

On this subject the *Kent Leader* had some interesting remarks on the anarchists as well as their Judge:

'Speaking of dynamite,' it said, 'we have serious cause for alarm in our free land. The wretches concerned

in the abominable outrage of Tuesday last cannot be too severely dealt with. It is evident that their intent was against Justice Hawkins, and the fact that Sir Henry was the presiding Judge at the recent anarchists' trial points the connection between the outrage and other anarchists. . . .

'Justice Hawkins has been spoken of as a harsh Judge. Ever since the "Penge mystery" trial many have termed him the hanging Judge. We have sat under him on many eventful occasions, and venture the opinion that no one who has had equal opportunity would come to any other conclusion than that he was painstaking and careful to a degree, and particularly in criminal cases formed one of the most conscientious Judges on the bench. Hanging Judge! Why, we have seen the tears start to his eyes when sentencing a prisoner to death, and, owing to emotion, only by a masterful effort could his voice be heard. Above all, he is a just Judge.'

A curious letter from a Judge of the High Court was addressed to me shortly after the explosion. It must not be forgotten that the Bretts were claiming that the attempt of the Fenians was to annihilate the Brett family, and nothing would induce Lord Esher, the Master of the Rolls, to give way in his opinion. The letter is dated November 5, 1894:

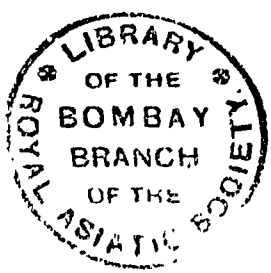
'DEAR HAWKINS,

'I hope St. Peter, or whoever has the charge of the infernal lists, will make a similar mistake as to your address, and will sentence young (and old) —— to what ought to be meant for you. Kind regards to Lady Hawkins.

'Very truly yours,

'——.'

It reminds me of the Irish story of the Dublin carman who, receiving from a stranger what he thought was a somewhat shabby fare (which could not, by the way, be said of what I gave the anarchists) for having driven him from a spot close by where a man had that morning been hanged, the car-driver exclaimed: 'By ——, they have hanged the wrong man!'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CHAPTER LVI

A MENU

[THE faded glories of an old menu may be accounted waste-paper-basket rubbish. But before that fate overtakes the one that Lord Brampton has handed to me, it is well to think what it means and what interest it may contain. The frontispiece has on it:

'UNION CLUB,
'BIRMINGHAM.

'ANNUAL GROUSE DINNER.

'*August* 13, 1890.

'We give your Lordships welcome to our table.'

'Now good digestion wait on appetite, and health on both.'

At the next page and under the menu is yet another quotation:

'Be large in mirth; anon, we'll drink a measure the table round.'

How little that menu, or those happy beings who designed it, thought of its preservation for *fourteen years*, and still less that it should form matter of interest and entertainment to the readers of Lord Brampton's reminiscences!

The interest surrounding it is that it represents the

social and convivial gathering of many friends, of two important circuits, and of the Bench and the Bar in happy fellowship and friendly rivalry. It represents the drawing to a close of the legal year and its worrying labour. It represents the fagged mind with the hope of pleasant times to come; of the yacht, the rod, and the gun, of sea and moor, of mountains and lakes, of the hundred pleasant excursions which, in the luxury of idleness, refresh the mind for still further labours to come.

Their 'lordships' came to the dinners to which the circuits invited them on this memorable occasion, and anon they 'drank a measure the table round.' All judicial cases were laid aside with their proper functions and judicial robes, and the *spirit* of the Judge fled with his paraphernalia, and he became, what is ever the best attitude of humanity, a '*mere man*.' *Both Judges* mere men. The Oxford and Midland Circuits, too, who met at Birmingham, were men also, with their laughter and frivolities, their jokes and songs, tales, epigrams, quips, quibbles, puns, and little jests, some of them overblown, and some of them mere *buds*.

Auspicious and happy was it all, or Lord Brampton would not have preserved this little memento of it. Nothing he liked better than meeting his innumerable friends of the Bar, unless it was his innumerable friends at Newmarket Heath or in the hunting-field.

The Oxford Circuit men, to my knowledge, told good stories, and I only wish I had the gift of repeating them, especially those that related to the long ago times, when eccentricities abounded more, perhaps, than they do now. For instance, there was one that an old member of that circuit told me of a cheery old good-tempered, crotchety Judge of his time, who was never called anything but *Old Charley*, except it was 'dear old Charley.' If you were asked which court you were in, it was, 'Oh, I'm before Old Charley.'

And Old Charley was worth being before, because he was a study in the science called 'mankind.'

Whenever Old Charley's mind was irritated, he scratched his left leg on the outside of the calf, and the greater the irritation the more violently he scratched. So that scratching at last became one of his judicial functions—the same as passing sentence; indeed, it always accompanied that unpleasant duty. 'Take that,' he'd say to the prisoner, 'and be d—— to you' (to himself, of course).

That was the worst feature in Old Charley: he *would* swear; he belonged to the old school, but as he always spoke through his nose, it did not sound so horrible as it otherwise would; and then, as he was very deaf, he could not always hear what he said, so there was some excuse. This was being told at table.

Sir Henry shook his head; no one knew Old Charley better than he, and no one could imitate him better.

However, the story was that one day at the Old Bailey Old Charley was the Judge, and was a good deal irritated by the counsel for the Treasury appearing in a *great beard and moustache*, appendages which had just come in with the intended visit of Napoleon Buonaparte to England accompanied by Messieurs the French Army. The Judge hated the sight of a beard, especially on counsel.

'Look here,' he said, 'Mr. ——, I don't know your name, sir——'

'Brown,' whispered the Clerk of Arraigns, standing up and shouting it round the side of the desk, as if he was speaking in a whisper.

'Oh, Brown, is it? Very well, then, Mr. Brown' (here he scratched his leg violently) 'I've said a good many times, I can't bear to hear counsel speaking behind a great beard; they mumble and mumble so you can't hear a word. Now then, Mr. Brown, keep your voice up.'

After a time came Old Charley's voice once more:

'There you are again, Mr. Brown. I can't hear what

you say for that beard. I shall disallow the costs of the prosecution if you don't keep your voice up, and see what that will do; if you will wear beards I shall disallow costs.' And the old man laughed and chuckled over his delightful joke.

That day came to a conclusion, and so did the case, and on the following morning, on taking his seat, you could see Old Charley's eyes wandering along the counsels' seats to see if there were any beards, and those sitting near could hear him grumble, 'There he is again.'

As soon as the counsel got up to open his case, Old Charley roared through his nose:

'*There you are again, Mr. Brown;* I told you yesterday——'

'*Mr. Smith!*' shouted the Clerk of Arraigns in the same manner as before, amidst a roar of laughter, which annoyed Old Charley, so that his poor leg got severely scratched that morning.

'Ay, *what*, what?'

'*Smith*, my lord.'

'*Smith!* Why, yesterday you told me it was *Brown!*'

'So it was, my lord, yesterday.'

'Then how is it Smith to-day?'

'*Not the same man, my lord!*'

'Not the same man! why, they are exactly alike—all beard. But look here, sir, I don't care whether it's Mr. Smith or Mr. Brown, but I tell you, as I told the counsel yesterday, whoever he was, if you don't keep your voice up I shall disallow the costs of the prosecution, and be —— to you!' (this, of course, addressed to his leg).

At this rebuke a young and enterprising junior sitting behind Mr. Smith made use of very unparliamentary language not a wit more religious than Old Charley's—in fact, he muttered most disrespectfully, 'D——d old fool!'

'Lookee here,' cried Charley, 'I don't know who *you*

are, young man, and I don't care, but let me tell you this: whenever you want to cuss and swear at me you just drop your voice a bit, *for I can hear every word you say.*'

After this we drank 'a measure the table round,' and a story was told of a member of the Bar, whose life was a sacrifice to social distinction, and a title the object of his devotion, who was said to have proposed as a candidate for membership of the Circuit Sir ——, *Baronet.* A speech was devoted, not to his *amiable or learned qualifications* to join the illustrious mess, but to his high social distinction; and he was commended as *one of our oldest baronets.* Next, there was a laudatory description of his equipage and hounds, his country seat, the *noble mansion* and *park of many generations*, and his connection with *high families*, etc. So that the devotee and worshipper of nobility sat down almost in a blaze of glory at having had the honour of proposing the long-descended baronet with the paternal acres.

After the outburst of ironical cheers had subsided, a junior of less pretentious devotion to the aristocracy rose, and with a tone of modesty said:

'I shall be happy to second the proposal of the leader of this circuit, especially as *I happen to be the mortgagee in possession of the paternal estates he mentioned* with so much pride!'

'Reminds me,' said another Oxford man, 'of old Jabez ——, of Shrewsbury, who keeps a curiosity shop. At a dinner where he was a guest, on some local celebration, there was another local celebrity, who was a *baronet.* Some great admirer of titular dignity and pedigree dilated a good while on the long journey he had travelled along the family line. After which Jabez, when his health was proposed, made a poor show, being merely spoken of as "*our neighbour.*"

'When, however, "our neighbour" replied, he did so with effect, for he said Sir Robert's might be considered a *long pedigree*, but for himself he thought nothing of

such modern families; they seemed to have come up in a night. "If *I* felt inclined," said Jabez, "to boast of family pedigree, I can only say that I am come down from Father Abraham."'

Speaking of a deaf Judge, Sir Henry was reminded of a deaf plaintiff, who would not speak up. At last, when appealed to by the complaining counsel, he said, holding up a blank sheet of paper:

'*I am quite satisfied; my notes are complete.* The plaintiff may go.']

This dinner to the Judges might be prolonged till the large hours of the morning, but it is well known that Judges do not sit late; still, it must be said that the stories and songs kept it going with a delightful hilarity equal to the good cheer that introduced it, and the good champagne that the Union Club of Birmingham knows as well as any house in England how to supply.

Of course in very few words, as is also the custom with barristers, the Judges' healths were drunk, and with similar brevity they replied, no speeches being worthy to note in print, although everything was amusing and delightful at the moment, and after all these years pleasant to remember. I could not help speaking of the ingenious artifices by which religious people press their claims upon our generosity. But the most startling one that ever appealed to my filial gratitude was contained in a letter from a worthy Vicar informing me that a certain church was in a state of decay and needed enlarging. The great inducement put forward was that under the chancel of that sacred edifice reposed the bones of my great-great-grandfather's great-uncle, and I was touchingly informed that those bones had ever been to the several vicars and churchwardens their most cherished possessions.

In reply I could do no less than express my sincere gratitude for their concern on behalf of these remains of so distant a member of my family, and since they had had the candour to admit how dear they were, I most gladly and gratefully made the Vicar and churchwarden a present of them.

[Country magistrates seldom listen to any authority but that of 'our clerk,' and what 'our clerk' says, taken from 'Stone's Justice,' is *their law*. Times have little changed in country districts in the growth of an intelligent administration of justice any more than in the growing of cabbages. Hence the frequent attacks of Sir Henry Hawkins on this and kindred subjects.

In his younger days he had seen so much of the Petty Sessional Division that he bore in remembrance the mode and manner of its behaviour.

In a Shropshire paper while he was at Shrewsbury there was an article which showed pretty strongly that they were in favour of his administration of the law.

'It was a pleasure on Wednesday morning,' says the article, 'to find the judicial seat in the Shropshire Assize Court occupied by that able and genial Judge, Mr. Justice Hawkins. At one time there was much misconception about him. He was popularly regarded as the severest of the severe. Truly he has always been a terror to evil-doers; but he never was an unduly severe Judge, and most people are aware now of the fact, and no Judge is more welcome at Assizes. His lordship, by the way, is cousin to that eminently successful modern novelist, Mr. Anthony Hope Hawkins, who writes under the bare disguise of "Anthony Hope," and who has affectionately dedicated one of his most popular novels to him. One of the first cases tried on Wednesday by Sir Henry Hawkins gave him ample scope for many witty observations, for which he is well known.'

The witty observations were never played up to, I am bound to say; they arose out of the case and formed

a part of it. No man ever had less occasion to seek for a turn of humour or used it more effectively.

A poor country fellow whose brains had more beer in them than wit was drunk. He got into a dwelling-house, and was charged by the rural police with 'breaking in'; perhaps they were technically right in the charge. According to the law he had broken in, although he had broken nothing, but had only lifted the latch and walked in, or probably reeled in; according to common-sense, therefore, there was no breaking in.

When he was in came the seriousness of the offence for which the rural magistrates sent him for trial: he threw some things about and *flourished a jam-pot at a window.*

In dealing with it Sir Henry said: 'There is no felonious intent in this case. A fine of five shillings would have been enough for getting drunk, and another fine of five shillings for damage would have amply met the merits or demerits of the case, whereas the county had been put to some pounds' expense to prosecute this man for an offence he never attempted to commit: witnesses have been paid to come and prove—*nothing*; while jurors have been summoned away from their businesses from all parts of the county to try nothing.

'And worst of all, the prisoner has been kept in prison during all this time, some months, *at the public expense* and his own inconvenience. But I hope it will teach him a lesson which will be useful to him as long as he lives—namely, that he must not flourish other people's jam-pots in their windows without leave; the bottom of one of these jam-pots appears to have fallen out and wasted the jam. The bottom of the case has fallen out too, and wasted the money of the country.'

The jury immediately found a verdict to that effect.]

CHAPTER LVII

'ARE YOU NOT GOING TO PUT ON THE BLACK CAP, MY LORD?'

[It was said at the early part of Sir Henry Hawkins' career that he was a 'hanging Judge.' Those who thought so without knowing and those who said so without thinking had good occasion to alter their opinions.

Most of these persons were not aware, and thousands are not at the present time, that when a verdict of 'Wilful murder' is pronounced a Judge has no alternative but to read the prescribed sentence of death. If this were not so, the situation would be almost intolerable, for who would not avoid, if possible, deciding that the irrevocable doom of the prisoner should be delivered? In many cases the feelings of the Judges would interfere with the course of justice, and murderers would receive more sympathy than their victims, while fiends would escape to the danger of society.

And yet that Judges have sympathy, and that it can be, and is, in these days properly exercised, the following story will testify. I give the story as Lord Brampton told it.]

In a circuit town a poor woman was tried before me for murdering her baby. The facts were so simple that they can be told in a few words. Her baby was a week old, and the poor woman, unable to sustain the load of

shame which oppressed her, ran one night into a river, holding the baby in her arms. She had got into the water deep enough to drown the baby, while her own life was saved by a boatman.

The scene was sad enough as she stood under a lamp and looked into the face of the policeman, clutching her dead child to her breast, and refusing to part with it.

At the trial there was no defence to the grave charge of wilful murder except *one*, and that I felt it my duty to discountenance. I think the depositions were handed to a young barrister by my order, and that being so, I exercised my discretion as to the mode of defence. In other words, I defended the prisoner myself.

In order to avoid the sentence that would have followed an acquittal *on the ground of insanity*, which would have entailed perhaps lifelong imprisonment, I took upon myself to depart from the usual course, and ask the jury whether, *without being insane in the ordinary sense, the woman might not have been at the time of committing the deed in so excited a state as not to know what she was doing.*

I thus avoided the technical form of question sane or insane, and obtained a verdict of guilty, but that the woman at the time was not answerable for her conduct, together with a strong recommendation to mercy. This verdict, if not according to the strictest legal quibbling, was according to justice.

I was about to pronounce sentence in accordance with the law, which it was not possible for me to avoid, however much my mind was inclined to do so, when the pompous old High Sheriff, all importance and dignity, said :

'My lord, are you not going to put on the black cap?'

'No,' I answered, 'I am not. I do not intend the poor creature to be hanged, and I am not going to frighten her to death.'

Addressing her by name, I said: 'Don't pay any attention to what I am going to read. No harm will be done to you. I am sure you did not know in your great trouble and sorrow what you were doing, and I will take care to represent your case so that nothing will harm you in the way of punishment.'

I then mumbled over the words of the sentence of death, taking care that the poor creature did not hear them, much, no doubt, to the chagrin of the High Sheriff and to the lowering of his high office and dignity. Nothing so enhances a Sheriff's dignity as the gallows.

Not very long after this I received an extract from a local paper, not referring particularly to this case, but good-humouredly chaffing me on my birthday. I never had the least idea of its authorship, although I have preserved it to the present hour.

'Congratulations to a certain party, and they calls him "Orkins." Your lordship rising eighty, and I take these liberties with your name because you're a great man, and won't take no notice of 'em.

'An upright Judge?' it went on to say.

'He is more than that. He is a seer of men and things, a distinguished member of the Jockey Club, a good sportsman, and a man of the world. Whatever his hand has found to do he has done it with his might. Hats off to Sir Henry Hawkins! There are few like him in this waning age.'

[There was a great deal of unlooked-for appreciation of his merits, and from quarters where, had he been a hard Judge, one could never have expected it.

There was even the observation of the costermonger leaning over his barrow near the Assize Court when one morning Sir Henry was going in with little Jack:

'Gorblime, Jemmy! see 'im? The ole bloke's been poachin' agin. See what he's got?'

It was a brace of pheasants, and not going into court with his gun, but only his dog, it was taken for granted he had been out all night on an unlawful expedition.

Someone asked Sir Henry at dinner that night what was the greatest amount of damages he ever obtained in a *nisi prius* verdict.

The Judge looked, and said: 'It depends upon circumstances.'

We were all somewhat puzzled at the answer.

'Damages.'

'Do you mean *nominal* value or actual?'

'Actual.'

'Well, then,' he said, '*half a farthing.*'

'The younger members at the table were a little disconcerted.

'I'll tell you,' said the Judge. 'There was in our Gracious Majesty's reign a coinage of *half a farthing.* It was soon discontinued as useless, but while it was current as coin of the realm I had the honour of obtaining a verdict for that amount. I need not say had it been paid in *specie* and preserved, it would in value more than equal at the present time any verdict at *nisi prius I* ever obtained.']

The most remarkable trial, I think, in which, as a Judge, I have presided was what was known at the time as the Muswell Hill tragedy. It was a brutal, commonplace enough affair, and with its sordid details might make a respectable society novel. I should have liked Sherlock Holmes to have been in the case, because

he would have saved me a great deal of sensational development, as well as much anxiety and observation.

The Muswell Hill tragedy is worth mentioning for several reasons.

Burglars are usually crafty and faithless to one another. They never act alone—that is, the real professionals—and they invariably, while in danger of being convicted, betray one another. Such, at all events, is my experience. Each one fears the treachery of his companion in guilt, and endeavours to be first in disclosing it. In the case I am now speaking of, this experience was never more verified than in the attempt on the part of these two murderers each to shift the guilt on to the other.

The ruffians Milsome and Fowler resolved to commit a burglary in the house of an old man who led a lonely life at the suburb known as Muswell Hill, near Hornsey.

The sole occupant of the cottage slept in a bedroom on the first-floor. In his room was an iron safe, in which he kept a considerable sum of money, close by the side of his bed.

In the dead of night the two robbers found their way into the kitchen, which was below the bedroom. They made, however, so much noise as to arouse the sleeper in the room above. The old man rose, and went down into the kitchen, where he found the two prisoners preparing to search for whatever property they might carry away. Instantly they fell upon their victim, threw him on to the floor, and with a table-cloth, which they found in the room and which they cut into strips for the purpose, bound the poor old man hand and foot, and struck him so violently about the head that he was killed on the spot, where he was found the following

morning. The prisoners failed to find the special booty they were in search of, and made off with some trifling plunder, the only reward for a most cruel murder. They escaped for a time, but were at last traced by a singular accident, one of the prisoners having taken a boy's toy lamp on the night of the burglary from his mother's cottage and left it in the kitchen of the murdered man. The boy identified one of the prisoners as the man who had been at his mother's and taken the lamp.

The men were jointly charged with the murder before me. Each one tried to fix the guilt of the crime on the other, knowing—or, at all events, believing—that he himself would escape the consequences of wilful murder if he succeeded in hanging his friend. I knew well enough that unless it could be proved that *both* were implicated in the murder, or if it should be left uncertain which was the man who actually committed it, or that they both went to the place with the joint intention of perpetrating it if necessary for their object they might both avoid the gallows. I therefore directed my attention closely to every circumstance in the case and after a considerable amount of evidence had been given without much result, so far as implicating both prisoners in the actual murder was concerned, an accidental discovery on my part revealed the whole of the facts of the tragedy as plainly as if I had seen it committed.

I have said that the table-cover had been *cut* into strips to accomplish that purpose, and it was clear that a penknife had been used, for one was found on the floor. Suddenly my attention was called to the fact that *two* penknives, which no one had hitherto noticed, were produced. They belonged, not to the prisoners, but to the deceased man, and were usually placed on the shelf in

the kitchen. But it came out in evidence, quite, as it seemed, accidentally, that they had been taken from that place and were found on the floor where the cutting up of the table-cover had been performed. They were found at some little distance from one another; but each knife *by the side of and not far from the deceased man.* They were at my wish handed to me; I also asked for some of the shreds which had bound the dead man. Upon examination, it seemed that these were the knives that had been used to cut the table-cloth into shreds, and if so, the jury might well assume that *each* prisoner had used one of the knives for that purpose, for one man could not at the same time use two.

The table-cloth had jagged or hacked edges, which satisfied the jury that the knives had been used hurriedly for the purpose of cutting the cloth into strips, and that each man had been doing his share of the cutting. It was thus clearly established that both the men were engaged in the murder and equally guilty, and so the jury found by their verdict.

Whilst they were considering, the bigger of the two men, a very powerful man, made a murderous attack upon the other, whom he evidently looked upon as his betrayer, and tried to kill him in the dock. The struggle was a fearful one, but the warders at last separated them.

They were both sentenced to death and hanged.*

* The fact of these men making a noise in entering the house was strongly against them on a question of intent. Burglars work silently, and at the least noise decamp, as a rule. In the present case, there being only one old man to contend against, it was easy to silence him as they did, and as they doubtless intended, when they went to the house.—R. H.

CHAPTER LVIII

SEVERAL SCENES

I ALWAYS hated, as I have before said, long speeches, and equally disliked long Assize sermons. At an Assize at Swansea the High Sheriff was an important personage in the navy—I think he was an Admiral. He also had no great liking for lengthy discourses either on sea or land; consequently he gave strict injunctions to the Under-Sheriff that 'brevity' was the order of the day; that the preacher was to remember whom he had on board, and come to an anchor as soon as possible.

'Tell him to cut it short, Under-Sheriff—cut it short—as short as he can. The Judge takes it in very quickly, and he'll learn as much in two minutes as some people would in fifty.'

When we got to church all went well until the sermon. Whether the chaplain liked the Admiral's interference with his navigation or not I do not know, but he certainly did not anchor as soon as the Admiral desired; that is to say, without metaphor, the sermon was longer even than usual, nor was it appropriate to the occasion, and most of the listeners were heartily tired of it.

However, it was over at last, to our intense relief. The chaplain descended from his pulpit, and while on

the way to our pew the Under-Sheriff whispered in his ear, 'Mr. Chaplain, you've been much too long for this Judge.'

When he came to the pew, which was the proper order of things, where we were ready to join the procession, I thanked him, according to custom, for his sermon, which so pleased him that he said in his exultation:

'I am *so* glad, my lord, to hear you say so, because the Under-Sheriff said the sermon was a great deal too long for your lordship.'

I merely answered, 'The Under-Sheriff was right.'

'Too long,' said the Admiral, 'but not too deep.'

And away went the procession, the Admiral chuckling over his joke, and every now and then repeating it. 'Not too deep. Devilish good!'

I think I have said elsewhere that I had a favourite motto, which was 'Never fret.' It has often stood me in good stead and helped me to obey it. I was much put to it, however, once on my way to open the Commission at Bangor on the Welsh Circuit. The Assizes were to commence on the following day. It was a very glorious afternoon, and one to make you wish that no Assize might ever be held again.

I had engaged to dine with the High Sheriff, who lived three or four miles away from the town in a very beautiful part of the country, so there was everything to make one glad, except the Assizes. Added to all this pleasurable excitement, the Chester Cup was to be run for in the meanwhile, and I had many old friends who I knew would be there, and whom I should have been glad to meet had it been possible.

The Sheriff had made most elaborate calculations

from his Bradshaw and other sources as to the times of departure and arrival by train. I did not know what to do, so I arranged with the station-master at Chester to shunt my carriage till the afternoon, having no doubt I should be able to fulfil my engagements easily.

It so happened, however, that the racing arrangements of the railway had been completely disturbed by the great crowds of visitors, and the result was that I did not reach Carnarvon at the proper time, and my arrival in that place was delayed for nearly an hour. Nevertheless, I opened the Commission, and the High Sheriff asked me if I would allow him to go on to his house to receive his guests, whom he had invited to meet me, and permit the chaplain to escort me in the performance of my duties.

Having dressed in full uniform, I got into the carriage with the chaplain, who was quite a lively companion, of an enterprising turn of mind, and desirous of learning something of the world. I could have taught him a good deal, I have no doubt, had I allowed myself to be drawn. My friend had no great conversational powers, but was possessed of an inquiring mind. After we had ridden a little way, to my great amusement he asked if I had any favourite *motto* that I could tell him, so that he might keep it in his memory.

'Yes,' said I, 'I have a very good one,' and cheerfully said, 'Never fret.'

This, when I explained it to him, especially with reference to my business arrangements, seemed to please him very much. It was as good as saying, 'Don't fret because you can't preach two sermons from two pulpits at the same time.'

He asked if he might write it down in his pocket-

book, and I told him by all means, and hoped he would.

'Excellent!' he murmured as he wrote it: Never fret.'

He then asked very modestly if I could give him any other pithy saying which would be worthy of remembrance.

'Yes,' said I, thinking a little, 'I recollect one very good thing which you will do well to remember: Never say anything you think will be disagreeable to other persons.'

He expressed great admiration at this, as it sounded so original, and was particularly adapted to the clergy.

'Oh,' said he, 'that's in the real spirit of Christianity.'

'Is that so?' I asked, as he wrote it down in his book, and he seemed to admire it exceedingly after he had written it, even more than the other.

Then he said he really did not like to trouble me, but it was the first time he had had the honour of occupying the position of Sheriff's chaplain, etc., but might he trouble me for another motto, or something that might go as a kind of companion to the others in his pocket-book?

This a little puzzled me, but I felt that he took me now for a sage, and that my reputation as such was at stake. I had nothing in stock, but wondered if it would be possible to make one for him while he waited.

'Yes,' said I, 'with the greatest pleasure: Never do anything which you feel will be disagreeable to yourself.'

'My lord!' he cried in the greatest glee, 'that is by far the best of all; that must go down in my book; it is so practical, and of every-day use.'

I was, of course, equally delighted to afford so young

a man so much instruction, and thought what a thing it is to be young. However, here was an opportunity not to be lost of showing him how to put to the practical test of experience two at least, if not all three, of the little aphorisms I had uttered, and I said so.

'I should be delighted, my lord, to put your advice into practice at the earliest opportunity,' he answered.

'That will be on Sunday,' said I, 'at twelve o'clock—don't preach a long sermon!'

In due time we arrived at the Sheriff's house, and there found all the guests assembled and waiting to meet me. I was quite quick enough to perceive at a glance that they had been planning some scheme to entrap me—at all events, to cause me embarrassment. The ladies were in it, for they all smiled,. and said as plainly by their looks as possible, 'We shall have you nicely, Judge, depend upon it, by-and-by.'

The Sheriff was the chief spokesman. No sooner had we sat down to table than he addressed me in a most unaffected manner, as if the question were quite in the ordinary course, and had not been planned, which I answered in the same spirit:

'My lord, could you kindly tell us which horse has won the Cup?' evidently thinking that I had been to the course.

There was a dead silence at this crucial question, a silence that you could feel was the result of a deep-laid conspiracy, and all the ladies smiled.

But, fortunately, I was not caught; nor was I even taken aback: my presence of mind did not desert me in this my hour of need, and I said, in the most natural tone I could assume:

'Yes, I was sure that would be the first question you

would ask me when I had the pleasure of meeting this brilliant company, as you knew I must pass through Chester Station, so I popped my head out of the window as we came through and asked the porter which had won. He told me the Judge had won by a length, Chaplain a good second, and Sheriff a bad third.'

The squire took his defeat like a man.

I was reminded during the evening of a singular case of bigamy, a double bigamy that came before me at Derby, in which the simple story was that an unfortunate couple had got married twenty years before the time I speak of; and that they had the good luck to find out they did not care for one another the very week after they were married. It would have been luckier if they had found it out a week before instead of a week after; but so it was, and in the circumstances they did the wisest thing, probably, that they could. They separated, and never met again until they met in the dock before me—a trysting-place not of their own choosing, and more strange than a novelist would dream of.

But there they were, and this was the story of their lives:

The man, after the separation, lived for some time single, then formed a companionship, and, as he afterwards heard that his wife had got married to someone else, thought he would follow her example.

Now, if a Judge punished immorality, here was something to punish, but the law leaves that to the ecclesiastical or some other jurisdiction. The Judge has but to deal with the breach of the law, and to punish in accordance with the requirements of the injury to society—not even to the injury of the individual.

I made inquiries of the police and others, as the

prisoners had pleaded guilty, and found that all the parties—the four persons—had been living respectable and hard-working lives. There was no fault whatever to be found with their conduct. They were respected by all who knew them.

I then asked how it was found out at last that these people, living quietly and happily, had been previously married.

'Oh, my lord,' said a policeman, 'there was a hinquest on a babby, which was the female prisoner's babby and what had died. Then it come out afore Mr. Coroner, my lord, and he ordered the woman into custody, and then the man was took.'

I thought they had had punishment enough for their offence, and gave them no imprisonment, but ordered them to be released on their own recognisances, and to come up for judgment if called upon.

Now came *my* sentence. The clergyman of the parish in which this terrible crime had been discovered evidently felt that he had been living in the utmost danger for years. Here these people came to his church, and for aught he knew prayed for forgiveness under the very roof where he himself worshipped.

He said I had done a fine thing to encourage sin and immorality, and what could come of humanity if Judges would not punish?

He denounced me, I afterwards learned, in his pulpit in the severest terms, although I did not hear that he used the same vituperative language towards the poor creatures I had so far absolved. Luckily I was not attending the reverend gentleman's ministration, but he seemed to think the greatest crime I had committed was disallowing the costs of the prosecution. That was

a direct *incentive to bigamy*, although in what respect I never learned.

It sometimes suggested to my mind this question:

What would this minister of the Gospel have said to the Divine Master when the woman caught 'in the very act' was before Him, and He said, in words never to be forgotten till men and women are no more, 'Neither do I condemn thee'?

I thought those who loved a prosecution of this kind —whoever it may have been—*ought* to pay for the luxury, and so I condemned *them* in the costs.

CHAPTER LIX

TRAGEDY—DR. LAMSON*

ONE of the most diabolical cases which came before me while a Judge was one which, although it occupied several days, can be told in the course of a comparatively few minutes. I mention it, moreover, not so much on account of its inhuman features as the fact that, in my opinion, Dr. Lamson led the prosecutors—that is, the Government solicitors—into a theory which was calculated by that cunning murderer to save him from a conviction, and it nearly did so. But I will come to that feature presently.

The story is this: There was in the year 1873 a family of five children, one of whom died that year and another in 1879, leaving two daughters and a poor cripple boy of eighteen. He was partially paralyzed, and had a malformation of the spine, so that he was an object of great commiseration, which was, indeed, shown by all who knew him. He was of a kind, cheerful, lively disposition, and, considering his spinal affliction, in good health. He seems to have been loved by everybody.

* In this and one or two other cases I am pleased to acknowledge my thanks to my esteemed friend Mr. Charles W. Mathews, the distinguished advocate, for refreshing my memory with these incidents.

His playmates wheeled him about in his chair so that he might enjoy their pastimes, and even carried him up and down stairs. One of this boy's sisters married a Mr. Chapman; the other married a man who was a doctor, or passed as one, of the name of Lamson. He was a man of idle habits, luxurious tastes, and a wicked heart. He was in debt, had fraudulently drawn cheques when he had nothing at the bank to meet them, and was so reduced to poverty that he had pawned his watch and his case of surgical instruments.

By the death of the boy's brother in 1879 the two sisters and himself received each a sum of £800. This boy, Percy, if he came of age, would have a further sum of £3,000, but if he died before that period one-half of this sum would go to Mrs. Chapman and one-half to Mrs. Lamson, the doctor's wife.

Lamson had bought a medical practice at Bournemouth in 1880, but very soon after writs and executions were issued against him.

For three years before Percy's death he had been at school at Blenheim House, Wimbledon.

It appeared from his statement while dying that he felt just 'the same as he did once before, when he was at Shanklin with his brother-in-law,' the doctor, 'after he had given me a quinine pill.' 'My throat is burning, and my skin feels all drawn up.' This pill, however, did not kill him, but it showed, as subsequent events proved, the murderous design of his brother-in-law, Dr. Lamson.

On December 3, the boy being still at school and in good health, was amusing himself with his school-fellows when his brother-in-law, Dr. Lamson, called. Percy was taken into the room to see him, when the doctor said: 'Well, Percy, old boy, how fat you

are looking!' It was a room 16 feet square, with a gaselier over the table. The doctor sat down, and Percy was seated near him. The visitor took out of a little bag a Dundee cake and some sweets. He then cut a small slice of cake with his penknife. About fifteen minutes afterwards he said to Mr. Bedbury, the master, 'I did not forget you and your boys: these capsules will be nice for them to take nauseous medicines in'; and he took several boxes of capsules from the bag and placed them on the table. One box he pushed towards Mr. Bedbury, asking him to try them.

No one had seen Lamson take a capsule out of the box, but he was seen to fill one with sugar and give it to the boy, saying: 'Here, Percy, you are a swell pill-taker.' Within five minutes after that the doctor excused himself for going so soon, saying if he did not he would lose his train.

Not long after his departure—that is, between eight and nine—the boy was taken ill and put into bed with all the violent symptoms which are invariably produced by that almost deadliest of vegetable poisons, aconitine, and he died at twenty minutes past eleven the same night.

Aconitine was found in the stomach; aconitine was purchased by the doctor before the boy's death, and, being well and having been well, the brother-in-law gave him the last thing he swallowed before the pangs of that deadly poison and its dreadful symptoms betrayed its presence. At that time no chemical test could be applied to aconitine, any more than it could to strychnine in the time of Palmer. But its symptoms were, in the one case as well as in the other, unmistakable, and such as no other cause of illness would produce.

Two pills were found in the boy's play-box, one of which was said to contain aconitine.

Such was the simple case which occupied six days to try. The jury were not long in coming to a conclusion, and returned into court with a verdict of 'Guilty.'

My awful duty was soon concluded. I told the prisoner the law compelled me to pass upon him the sentence of death; but gave him, both by voice and manner, to understand that in this world there could be no hope for such a criminal. I said, as I thought it right to say, that it was no part of my duty to admonish him as to how he was to meet the dread doom that awaited him, but nevertheless I entreated him to seek for pardon of his great sin from the Almighty. It was my opinion, and I believe that of the counsel for the defence, that, although so much stress was laid upon the *capsule* and the administration of the poison by that means, it was not so administered, but that the capsule was an artifice, designed to hoodwink the doctors and Treasury solicitors.

To have poisoned the boy in such a manner would have been a clumsy device for so keen and artful a criminal as Lamson; and I knew it was conveyed in another manner, although the solicitors never hit upon the point. It should be stated that in Lamson's pocket-book were found memoranda as to the symptoms and effect of aconitine, and as to there being no test for its discovery. Lamson therefore had made the poisoning of this boy a careful and particular study. He was not such a clumsy operator as to administer it in the way suggested. The openness of that proceeding was to blind the eyes of detectives and lawyers alike; the aconitine was conveyed to the lad's stomach *by means of a raisin in the piece of Dundee cake which Lamson*

cut with his penknife and handed to him. He knew, of course, the part of the cake where it was.

My attention, I must confess, was directed to the artifice employed by Lamson, by the shallowness of the stratagem, and by the one circumstance that seemed to elude all eyes—namely, the Dundee cake and the curious desire of the man to offer the boy a piece in so unusual a manner. So eager was he to give him a taste that he must needs cut it with his *penknife.* I was sure, and am sure now, although there is no evidence but that which common-sense, acting on circumstances, suggested, that the aconitine was conveyed to the deceased by means of the portion of cake which Lamson gave him, and being carefully placed in the interior of the raisin, would not operate until the skin had had time to digest, and he the opportunity of getting on his journey to Paris, whither he was bound that night, to await, no doubt, the news of the boy's illness and death.

If the poison had been conveyed in the capsule its operation would have been almost immediate, and so would the detection of the aconitine. As I have said, the contrivance would have been too clumsy for so crafty a mind. A detective would not expect to find the secret design so foolishly exposed any more than a spectator would expect to see the actual trick of a conjurer in the manner of its performance.

I was not able to bring the artifice before the jury; the Crown had not discovered it, and Lamson's deep-laid scheme was nearly successful. His plan, of course, was to lead the prosecution to maintain that he gave the poison in the capsule, and then to compel them to show that there was no evidence of it. The jury were satisfied that the boy was poisoned by Lamson, and little troubled themselves about the way it was done.

CHAPTER LX

A CASE OF MISTAKEN IDENTITY

A FEW specimens of the more remarkable cases that have come before me may not be unacceptable or uninteresting to the general reader, while those in my profession will have reasons beyond their dramatic interest for appreciating them, the more especially as they will know they are fact, and not fiction.

A singular case of mistaken identity came under my notice during the trial of a serious charge of wounding with intent to do grievous bodily harm. *Five* men were charged, and the evidence showed that a most brutal mutilation of a gamekeeper's hand had been inflicted. The men were notorious poachers, and were engaged in a poaching expedition when the crime was committed. One of the accused was a young man, scarcely more than a youth, but I had no doubt, and have none now, that he was one of the cleverest of the gang. The men were convicted, but this young man vehemently protested his innocence, and declared that he was not with the gang that night. His manner impressed me so much that I began to doubt whether some mistake had not been made. The injured keeper, however, whose honesty I had no reason to

doubt, declared that this youth was really the man who knelt on his breast and inflicted the grievous injury to his hand by nearly severing the thumb. He swore that he had every opportunity of seeing him while he was committing the deed, as his face was close to his own, and *their eyes met.*

Moreover, the young man's cap was found *close by the spot where the assault took place.* About this there was no dispute and could be no mistake, for the prisoner confessed that the cap was his, adding, however, that he *had lent it on that night to one of the other prisoners.* The youth vehemently protested his innocence after the verdict was given.

So far as he was concerned I was *not* satisfied with the conviction. 'Is it possible,' I asked myself, 'that there can have been a mistake?' I did not think in the excitement of such a moment, and during so fearful a struggle with his antagonist, with their faces *so close together* that they stared into each other's eyes, there was that opportunity of seeing the youth's face as to make it clear beyond any doubt that this man was the man who committed the crime. The jury, I thought, had judged too hastily from appearances, which was always to be guarded against.

I invited the prosecuting counsel to come to my room, and then asked him, 'Are you satisfied with that verdict so far as the *youngest prisoner* is concerned?'

'Yes,' he said; 'the jury found him "Guilty," and I think the evidence was enough to justify the verdict.'

"'I *do not,*' I said, 'and shall try him again on another indictment.' There was another, involving the same evidence.

I considered the matter very carefully during the

night, and weighed every fact and every piece of evidence with every probability, and the more I thought of it the more convinced I was that injustice had been done.

First of all, to prevent the men who I was convinced were rightly convicted from entertaining any doubt about the result of their conviction, I sentenced them to penal servitude.

I then undertook to watch the case on behalf of the young man myself, and did not, as I might have done, assign him counsel.

The prisoner was put up for trial, and the second inquiry commenced. It had struck me during the night that there was a point in the case which had been taken for granted by the *counsel on both sides*, and that that point was *the* one on which the verdict had gone wrong. As I have said, I did not doubt the honest belief of the keeper, but I doubted, and, in fact, disbelieved altogether, in the power of any man to identify the face of another when their eyes were close together, as he had no ordinary but a distorted view of the features. In order to test my theory on this matter I took the real point in the case, as it afterwards turned out to be. It was this: *Five men* were taken *for granted* to have been in the gang and in the field on that occasion. The difficulty was to prove that there were only *four*, and then to show that the young man was not one of the four. These two difficulties lay before me, but I resolved to test them to the utmost of my ability. The Crown was against me and the Treasury counsel.

I knew pretty well where to begin, which is a great point, I think, in advocacy, and began in the right place. I ought to say that the prisoner boldly asserted, when the

evidence was given as to the finding of his cap close to the spot where the outrage was committed, that it *was* his cap, but that he had not worn it on that night, having lent it to one of the other men, whom he then named. This was, to my mind, a very important point in this second trial, and I made a note of it to assist me at a later period of the case. If this was true, the strong corroboration of the keeper's evidence of identity was gone. Indeed, it went a good deal farther in its value than that, for it may have been the finding of the prisoner's cap that induced the belief that the man whose face he saw was the prisoner's!

I asked the prisoner if he would like the other men called to prove his statements, warning him at the same time that it was upon his own evidence that they had been arrested, and pointing out the risk he ran from their ill-will.

'My lord,' said he, 'they will owe me no ill-will, and they will not deny what I say. It's true; I'm one of 'em, and I know they won't deny it.'

Without discarding this evidence, I let the case proceed. I asked the policeman when he came into the witness-box if he examined carefully the footprints at the gate where the men entered. He said he had, and was *quite positive* that there were the footprints of *four men only*, and further, that these prints corresponded with the shoes of the four men who had been sentenced, and *not* with those of the prisoner.

It shows how fatal it may be in Judge, counsel, or jury to take anything for granted in a criminal charge. It had been taken for granted at the former trial that *five* men had entered the field, and how the counsel for the defence could have done so I am at a loss to

conceive. It was further ascertained that the same number and the *same footprints* marked the steps of those coming *out* of the field. It went even farther, for it was proved that *no footprints of a fifth man were anywhere visible on any other part of the field*, although the most careful search had been made.

If this was established, as I think it was beyond all controversy, it clearly proved that only *four men* were in the field when the injuries were inflicted. But it might, nevertheless, be that the young man identified was one of the four. Whether he was or not was now the question at issue; it was reduced to that one point. To disprove this the prisoner said he would like the men to be called. I cautioned him again as to the danger of the course he proposed, feeling that he was pretty safe as it was in the hands of the jury. They could hardly convict under my ruling in the circumstances.

'No, my lord,' he said, 'I am *sure they will speak the truth about it.* They will not swear falsely against me to save themselves.'

The man who was alleged to have borrowed the cap was then brought up, and I asked him if it was true that he wore the prisoner's cap on the night of the outrage. He said: 'It is true, my lord; I borrowed it.'

'Then are you the man who inflicted the injury on the keeper?'

His answer was: 'Unhappily, my lord, I am, and I am heartily sorry for it.'

When asked, 'Was this young man with you that night?' 'No, my lord,' was the answer.

The jury at once said they would not trouble me to sum up the case; they were perfectly satisfied that

the prisoner was not guilty, and that what he said was true—that he was not in the field that night. They accordingly acquitted him, to my perfect satisfaction.

Of course, I instantly wrote to the Home Secretary, Mr. H. Matthews (now Viscount Llandaff), who at once procured a free pardon on the former conviction, and the prisoner was restored to liberty.

This case strikingly points to the imperative demand of justice that every case shall be investigated in its minutest detail. The broad features are not by any means sufficient to fix guilt on anyone accused, and it is in such cases that circumstantial evidence is often brought in question, while, indeed, the *real* circumstances are too often not brought to light. Circumstantial evidence can seldom fail if the real circumstances are brought out. Nobody had thought of raising a doubt as to there being *five* persons in the field.

Upon such small points the great issue of a case often depends.

Another curious case came before me on the Western Circuit. A solicitor was charged with forging the will of a lady, which devised to him a considerable amount of her property; but, as the case proceeded, it became clear to me that the will was signed after the lady's death, and then with a dry pen held in the hand of the deceased, by the accused himself whilst he guided it over a signature which he had craftily forged. A woman was present when this was done, and as she had attested the execution of the will, she was a necessary witness for the prisoner, and in examination-in-chief she was very clear indeed that it was by the *hand of the deceased* that the will was signed, and that she

herself had seen the deceased sign it. Suspicion only existed as to what the real facts were until this woman went into the box, and then a scene, highly dramatic, occurred in the course of her cross-examination by Mr. Charles Mathews, who held the brief for the prosecution.

The woman positively swore that she saw the testatrix sign the will *with her own hand*, and no amount of the rough-and-ready, inartistic, and disingenious '*Will you swear this?*' and '*Are you prepared to swear that?*' would have been of any avail. She *had* sworn it, and was prepared to swear it, in her own way, any number of times that any counsel might desire.

The only mode of dealing with her was adopted. She was asked:

'Where was the will signed?'

'On the bed.'

'Was anyone near?'

'Yes, the prisoner.'

'How near?'

'Quite close.'

'So that he could hand the ink if necessary?'

'Oh yes.'

'And the pen?'

'Oh yes.'

'*Did he hand the pen?*'

'He did.'

'*And the ink?*'

'Yes.'

'There was no one else to do so except you?'

'No.'

'Did he put the pen into her hand?'

'Yes.'

'And assist her while she signed the will?'

'Yes.'

'How did he assist her?'

'*By raising her in the bed and supporting her when he had raised her.*'

'Did he guide her hand?'

'No.'

'Did he touch her hand at all?'

'*I think he did just touch her hand.*'

'When he did touch her hand, *was she dead?*'

At this last question the woman turned terribly pale, was seen to falter, and fell in a swoon on the ground, and so *revealed the truth* which she had come to *deny*.

CHAPTER LXI

THE STORY OF THE BUS

I WAS in a case in which a brougham had collided with an omnibus. My junior was a Mr. Shaw, an Englishman, and not, therefore, accustomed to Scotch vernacular. Lord Campbell was very jealous of his country's language, as of every other thing appertaining to it, even to its haggis, and as Shaw kept pronouncing the brougham as if it were spelt with two syllables, Campbell, after correcting him two or three times, at last got angry, and, his Scotch blood being up and he himself eager to get away, said :

'Mr. Shaw, there is a way in Scotland we have of calling things by their reicht naames ; but we're in England, and I would obsarve that the name of the noble and larned lord was not Broug-ham, but Brougham. It is Sauterday afternoon, and, in addition to its being inelegant to call things by their wrong naames, it is a reason why it should be called as if spelt Broom. It would just save a syllable which is altogether just waaste, and would shorten the proceedings.'

After this long speech, which wasted much more time than the fault complained of, the case proceeded

until presently Campbell asked a witness which course was pursued by the omnibus.

I was waiting my opportunity, and at last seized it.

'My lord,' I suggested, 'as we all desire, with your lordship, to get away, it being Saturday afternoon, would your lordship see any great objection to calling that vehicle a *bus?* By that pronunciation we should save two syllables more.'

Campbell, who, although quick-tempered, was, nevertheless, quite appreciative of a good joke, laughed heartily, and said, with affected pomposity suitable to the occasion :

'Be it so, Mr. Hawkins.'

I admired Campbell at all times for his high qualities, albeit he was severe and formal to a degree. The infamous woman I mentioned as the arsenical poisoner had escaped a great many times the fate she deserved. But at length the devil could assist her no longer, for she fell into the hands of 'Jock Campbell' to be tried for her life.

'Let her be seated,' said Jock, 'let her be seated' —a sure sign of the operation that awaited her.

She had been tried several times for murder before other judges, and had escaped. Although now found guilty of only an attempt to murder, Campbell hanged her most righteously.

When the poisoner Palmer was brought before Campbell at the Old Bailey, his lordship said, in answer to an application that the prisoner might be seated : '*By all means,* let the prisoner be seated.'

There was a strong contrast between Lord Campbell

and the Lord Chief Baron Pollock in temperament, disposition, and mental endowments. Both were great men, and I had the greatest esteem for them; for both were kind to me. But there was, I think, more to love in the Chief Baron and more to attract in almost every way. For instance, he had the most delightful sense of humour and even fun, as well as a brilliant wit which, although it could sometimes be broad, was never coarse.

If there was one thing that put him off the even balance of his temper, it was the boasting of some upstart who had made money and wanted position. On the other hand, nothing was more pleasing to him than to meet one who, by force of intellect and character, had risen to eminence, no matter in what department of human energy. It was the overcoming of obstacles that, in his opinion, showed more of a man's worth than anything else.

He attended at the Old Bailey with other Judges in his proper turn, and much experience of human character was gained from those assemblages of wealth, learning, luxury, ignorance, and crime.

One day the Recorder of London, in presenting the Lord Mayor to him, which he did in bombastic and inflated language, described his early education and struggles, his poverty, industry, perseverance, and ultimate wealth.

He said: 'My lord, he became an orphan when a young boy, and suffered, indeed, great poverty; but by his energy and perseverance he has now become one of our city nobles.'

Pollock listened apparently with the greatest

interest to the story of so much greatness, and presently asked:

'What is the difference between his former circumstances and the present?'

The city nobles looked, but could not answer; even the learned Recorder was puzzled to give a definition of the different condition of things.

Then the Lord Chief Baron, with the smile that characterized him, said:

'I will tell you the difference: it is merely a matter of degree. In youth he was a poor orphan, and now he is a better-off un.'

'Cut it short!' cried a prisoner to this same Lord Mayor, who was lecturing him about the road to ruin, and so on. 'If I'd got your money-bags, old *hoss*, do you think I should be where I am? Not for Joe! And if your worship hadn't got no more nor I've got, do you think you'd be where you are? No, no! You go without grub for a day or two, and see if you wouldn't do zummut besides preaching to sich chaps as we. You talks of our walkin' about with our 'ands in our pockets; why, you'd putty soon 'ave yours in somebody else's if you wanted grub. Put yourself in my place, your worship.'

'No, no,' said his lordship, 'not if I know it; but I'll give you another chance.'

And he did, for the prisoner's circumstances came home to him as no other argument would have done; so that if there was nothing in the Lord Mayor's lecture, there was a good deal in the prisoner's.

There was another worshipful Alderman whose flashes of wit were brilliant, but irregular, and at one

of the festive gatherings at the Old Bailey he propounded the following conundrum :

'What is the difference between a pair of silk stockings and a donkey ?'

Everyone considered that there must be an amazing difference in many ways, and the aldermanic intellect was considered to have made an advance in discovery, if not in science.

You heard murmurs of repetition as are usual on occasions of such profundity, but no one, curiously enough, could see the difference.

The witty Alderman, however, with a smile of self-approval, said :

'The difference between a pair of silk stockings and a donkey is that the one you *wear* and the other you *are*. Ha ! ha ! ha !'

The answer was so good that it was greeted with a round of applause, which threatened the conviviality of the remainder of the evening. At last a literary gentleman, whose name I am not at liberty to give, because I have not time to obtain his consent, as he is absent from England at the moment of my writing, asked :

'What is the difference between a gentleman and an Alderman ?'

It was a remarkably clever riddle, but the asker thought it was not beyond the bounds of propriety, seeing how the Alderman had exercised his own faculty of imagination.

The Alderman looked and considered.

'You'll never guess it,' said the journalist.

'No ?'

'No, because the one you are, and the other you never will be. Ha! ha! ha!'

I believe that was the Alderman's last.

I am told by a friend who was pretty loyal in his attendance at these convivial meetings that on one occasion after Mr. Jones, the Chaplain of Newgate, had responded to the toast of his health, and duly expatiated on the conversion of the savages brought within his ministration, and said how gratifying it was to the Corporation that so many of them were assisted to lead reformed lives in other countries, and what nice letters he received from them—'Yes,' said Mr. Russell Gurney, the Recorder, 'I have no doubt it was one of the reformed lambs of Jones's flock that stole my watch when I was in America.'

I was not a frequent diner, but have no doubt that these convivialities, now no more, tended to the most genial interchange of good feeling, especially between the City proper and the City improper—I mean the City's extra-parochial poor neighbour, the Temple, which seems to have no parish to fall back upon, however much it may need relief. How many of its poor, I wonder, have gone back from these dinners to their lonely chambers blessing Heaven that there was such an institution as the dear Old Bailey!

Speaking in all seriousness, our hospitable hosts, who are our colleagues on the Bench of the Central Criminal Court, often did us the honour to say that they improved their knowledge of law while sitting with the Judges. I answer in return that Judges improve their knowledge in other matters which they find useful in its administration; and in taking leave

of the 'Ancient of Days'—the Corporation of London —I cannot but feel that it is now, as it ever has been, one of the most valuable of our nation's institutions. It is old indeed, but it can never be antiquated while it preserves its excellent constitution and continues in the exercise of its beneficent and manifold public duties; who that has known it as I have but must wish a never-ending existence to this great consolidation of human interests?

CHAPTER LXII

A LAST REMINISCENCE OF BARON POLLOCK

[THE last reminiscence of dear old Baron Pollock—the 'last of the Barons,' if not the best—the equal of all in amiability and brightness of intellect, is given in the following account of a scene that took place at Winchester Assizes.

Sir Henry Hawkins, on taking his seat on the Bench one morning, had not the light smile and jaunty manner wherewith he was wont to make his bow to the jury and the Bar.

He looked sad, as one who had received bad news, and it was some little time before he spoke. In the meanwhile he opened his note-book and turned over its pages, not as if preparing for work, but rather as if to delay the little speech which he intended to make. At last he said in a voice quivering with emotion :]

'I am quite satisfied that no one who hears my voice and who knew *Baron Pollock* can feel anything but the deepest sorrow that *he is no more,* and will never again be seen in the familiar spot where he used to be.

'Three weeks ago, the day before I left for circuit, Baron Pollock was presiding in court in the absence of the Lord Chief Justice, and little did I think it would be the last time I should exchange words

with him. From the time he entered the profession, I had preceded him by some three or four years, and from the time of his entry upon his career down to the hour of his death I never heard one single word other than that which was commendatory of him.

'He was a man of sound judgment, very equal temper, very kindly, and very affectionate to all those who came in contact with him. I never heard Baron Pollock speak unjustly or use an ill word of any human creature. Having had great knowledge and experience of him, I can but say I feel deeply his loss. I know that a good man has gone to his rest.

'Those in whose presence I am speaking feel that I am speaking nothing but the truth. I could say much more, but it is not the time to dwell on his merits either as a lawyer or a friend. I only make the announcement to you for the purpose of expressing my sorrow at his having been taken from us, and I am sure you will all agree in what I have said.'

[It need not be added that profound silence was everywhere in court, and for awhile no one spoke; at last the leader of the circuit, in a few well-chosen words and in a manner that showed deep feeling, expressed the sorrow of all who had known and loved the late Baron, and no one could know him, as the learned counsel added, without agreeing with everything the learned Judge had said.

And so farewell to Baron Pollock, one of the most amiable Judges who ever adorned the Bench. He was the last of that ancient court which for more than seven hundred years had been known as the Court of Exchequer. He was the 'last of the Barons.']

CHAPTER LXIII

MR. J. L. TOOLE ON THE BENCH

[SIR HENRY HAWKINS was sitting at Derby Assizes in the Criminal Court, which, as usual in country towns, was crowded so that you could scarcely breathe, while the air you breathed was like the breath of a pestilence. There was, however, a little space left behind the dock which admitted of the passage of one man at a time.

Windows and doors were all securely closed, so as to prevent draught, for nothing is so bad as draught when you are hot, and nothing makes you so hot as being stived by hundreds in a narrow space without draught.

He happened to look up into the faces of this shining but by no means brilliant assembly, when, what should he observe peeping over the shoulders of two buxom factory women with blue kerchiefs but the *head of J. L. Toole!* At least, it looked like Mr. Toole's head; but how it came there it was impossible to say. His head was a delight anywhere, but it seemed now out of place.

The Marshal asked the Sheriff, 'Isn't that Toole?'

The answer was, 'It looks like him.'

We knew he was in the town, and that there was to be a bespeak night, when Her Majesty's Judges and the Midland Circuit would honour, etc. Derby is not behind other towns in this respect.

Presently the Judge's eyes went in the direction of the object which excited so much curiosity, and, like everyone else, he was interested in the appearance of

the great comedian, although at that moment he was not acting a part, but enduring a situation.

In the afternoon the actor was on the Bench sitting next to the marshal, and assuming an air of great gravity, which would have become a Judge of the greatest dignity. There was never the faintest suggestion of a smile. He looked, indeed, like Byron's description of the Corsair :

> 'And where his frown of hatred darkly fell,
> Hope, withering, fled, and Mercy sighed farewell.'

A turkey-cock in a pulpit could not have seemed more to dominate the proceedings.

One very annoying circumstance occurred at this Assize. It was the cracking, sometimes almost banging, of the *seats* and wainscotting, which had been remade of oak. Every now and again there was a loud squeak, and then a noise like the cracking of walnuts. To a sensitive mind it must have been a trying situation, as Toole afterwards said, when you are trying prisoners.

Meanwhile Sir Henry pursued the even tenor of his way, speaking little, as was his wont, and thinking much about the case before him, one of a very trumpery character, unless you measured it by the game laws. But no one less liked to be disturbed by noises of any kind than Sir Henry when at work. Even the rustling of a newspaper would cause him to direct the reader to study in some other part of the building.

Suddenly there was a squeaking of another kind distinguishable from all others—it was the squeaking of *Sunday boots*. In the country no boots are considered Sunday boots unless they squeak. At all events, that was the case in Derbyshire at the time I write of.

The noise proceeded from a heavy farmer, a juror-in-waiting, who was allowed to cross from one side of the court to the other for change of air. His endeavour to suppress the noise of his boots only seemed to cause them the greater irritation. There was a universal

titter as the crowd looked up to see what line the Judge would take.

Sir Henry reproved quietly, and just as the farmer, who was prancing like an elephant, had got well in front of the Bench, he said:

'If that gentleman desires to perambulate this court, he had better take off his boots.'

The gravity of the situation was disturbed, but that of the farmer remained, unhappily for him, for, with one foot planted firmly on the ground and the other poised between heaven and earth, he was afraid to let it come down, and there he stood. 'We will wait,' said the Judge, 'until that gentleman has got to the door which leads into the street.' The juryman, Toole told us afterwards, was delighted, for he escaped for the whole Assize.

Although there was much laughter, Toole knew his position and dignity too well to join in it; but he did what any respectable citizen would be expected to do in the circumstances—tried to suppress it, yet made such faces in the attempt that the whole house came down in volleys. But now he was resolved to set matters right, and prevent any further repetition of unseemly conduct. The way he did so is worthy of note. He took a pen, dipped it in the ink, and then, spreading his elbows out as one in great authority, and duly impressed with the dignity of the situation, wrote these words on a sheet of paper, which had the royal arms in the centre, his tongue meanwhile seeming to imitate the motion of his pen: 'I have had my eye on you for a long time past, and if I see you laugh again I will send you to prison. Be warned in time.'

'Just hand that,' said he, giving it to a javelin-man, 'to the gentleman there in the *green blouse* and red hair.'

The paper was stuck into the slit of the tapering fishing-rod-like instrument, and placed under the nose of the man who had been laughing. It was some time before he could believe his eyes, but a thrust or two of

the stick acted like a pair of spectacles, and convinced him it was intended for his perusal. The effect was instantaneous, and he handed the document to his wife. It was interesting to watch the face of Toole, suffused with good-humour and yet preserving its elastic dignity, in contrast with that of the farmer, which was almost white with terror as they interchanged furtive glances for the next half-hour. However, it all ended happily, for the man never laughed again. Toole was invited to dine at the Judge's dinner, but being himself on circuit, and not at liberty till *eleven*, when he took supper, an invitation to 'look in' was accepted instead if it were not too late.

After supper he accordingly went for his 'look in,' and, arriving at half-past eleven, was in time for dinner, which did not take place till half-past twelve, the court having adjourned at 12.15. However, we spent a very pleasant evening, Toole telling the story of his going to see Hawkins in the Tichborne trial related elsewhere, and Sir Henry that of the Queen refusing once upon a time to accept a box at Drury Lane Theatre while E. T. Smith was lessee, which made Mr. Smith so angry that he could hardly bring himself to propose Her Majesty's health at a dinner that same evening at Drury Lane. Of course 'E. T.' felt it, and nothing but his loyalty prevented his resenting it in a suitable and dignified manner. When one Sovereign is affronted by another, the only thing is to consider their respective *commercial* values, for that, as a rule, is the test of all things in a commercial world. But the sequel was that E. T. said: '*Although me and Her Majesty have had a little difference, I think on the whole I may propose the Queen!*' Fool is he who neglects his Sovereign, and gets in exchange Sovereign contempt. Such was Toole's observation.

It was at this little entertainment that Sir Henry told the story of the banker's clerk and the bad boy—a true story, he said, although it may be without a moral.

The best stories, said Toole, like the best people, have no morals—at least, none to make a song about—any more than the best dogs have the longest tails.

A gentleman who was a customer at a certain bank was asked by a bank clerk whether a particular cheque bore his signature.

The gentleman looked at it, and said, 'That is all right.'

'All right?' said the bank clerk. 'Is that really your signature, sir?'

'Certainly,' said the gentleman.

'Quite sure, sir?'

'As sure as I am of my own existence.'

The clerk looked puzzled and somewhat disconcerted, so sure was he that the signature was false.

'How can I be deceived in my own handwriting?' asked the supposed drawer of the cheque.

'Well,' said the clerk, 'you will excuse me, I hope, but I have *refused to pay on that signature* because I do not believe it is yours.'

'*Pay!*' said the customer; 'for Heaven's sake, do not dishonour my signature.'

'I will never do that,' was the answer; 'but will you look through your papers, counterfoils, bank-book, and accounts, and see if you can trace this cheque?'

The customer looked through his accounts and found no trace of the cheque or the amount for which it was given.

At last, on examining the *number* of the cheque, he was convinced that the signature could not be his, *because he had never had a cheque-book with that number in it.* At the same time, his astonishment was great that the clerk should know his handwriting better than he knew it himself.

'I will tell you,' said the clerk, 'how I discovered the forgery. A boy presented this cheque purporting to have been signed by you. I cashed it. He came again with another. I cashed that. A little while

afterwards he came again. My suspicions were then aroused, not by anything in the signature or the cheque, but by the circumstance of the *frequency of his coming*. When he came the third time, however, I suspended payment until I saw you, because the *line under your signature with which you always finish was not at the same angle;* it went a trifle nearer the letters, and I at once concluded it was a FORGERY.' And so it turned out to be.

'That boy,' said Toole, 'deserves to be taken up by someone, for he has great talent.'

'And in speaking of this matter,' said Sir Henry, 'I may tell you that bankers' clerks are the very best that ever could be invented as tests for handwriting. Their intelligence and accuracy are perfectly astonishing. They hardly ever make a mistake, and are seldom deceived. The experts in handwriting are clever enough, and mean to be true; but every *expert* in a case, be he doctor, calligrapher, or phrenologist, has some unknown quantity of bias, and must almost of necessity, if he is on the one side or the other, exercise it, however unintentional it may be. The banker speaks *without this influence*, and therefore, if not more likely to be correct, is more reasonably supposed to be so.

'I had been examining Nethercliffe,' said Sir Henry, 'with whom I was always on the best of terms, although I chaffed him too often, perhaps, for his peace of mind.

'"Mr. Hawkins," said he one day in plaintive accents, "*I hope you will finish with me to-day*, because I have to be in a case at Liverpool to-morrow."

'"I think I have done with you," I said. "I have got as much out of you as I want."

'Nethercliffe looked confused and not a little surprised, for he always came out of the box with the idea that he had had the best of counsel.

'Anxious on this occasion to undeceive him, I fixed my eyes on him for a little while, and then said:

'"You need not look surprised, Mr. Nethercliffe. I have no other question to ask you, but if you will allow me, I will give you a little piece of advice."

'He was most respectfully grateful.

'"I am sure, Mr. Hawkins, I shall be much obliged, for any advice you will give me will be of the greatest service, I am sure."

'"Very well, then; I hope you'll profit by it. For G—'s sake don't you go and tell a Liverpool jury what you have been saying in this case to-day, for if you do no jury in the world will believe you."

'"Indeed, sir," Nethercliffe said—"indeed, sir," he added as he stepped down from the box.

"'Yes, sir, mark that; they will not believe you!"

'Exit Nethercliffe.'

'Do you remember, Sir Henry,' asked Toole, 'what the clever rogue Orton wrote in his pocket-book? "Some has money no brains; some has brains no money; them as has money no brains was made for them as has brains no money."'

'Just like Roger,' said Sir Henry. This was a catch-phrase in society at the time of the trial.

Someone recited from a number of *Hood's Comic Annual* the following poem by Tom Hood:

'A BIRD OF ANOTHER FEATHER.*

'Yestreen, when I retired to bed,
I had a funny dream;
Imagination backward sped
Up History's ancient stream

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* These lines appeared, I think, in about 1874, and I have to make acknowledgments to those whom I have been unable to ask for permission to reproduce, and trust they will accept both my apologies and thanks.—R. H.

A falconer in fullest dress
Was teaching me his art;
Of tercel, eyas, hood, and jess,
The terms I learnt by heart.

'He flew his falcon to attack
The osprey, swan, and hern,
And showed me, when he wished it back,
The lure for its return.
I thought it was a noble sport;
I struggled to excel
My gentle teacher, and, in short,
I managed rather well.

'The dream is o'er, and I to-day
Return to modern time;
But yet I've something more to say,
If you will list my rhyme.
I've been a witness in a case
For seven long mortal hours,
And, cross-examined, had to face
The counsel's keenest powers.

'With courteous phrase and winning smiles
He led me gently on;
I fell a victim to his wiles;—
But how he changed anon!
"Oh, you're prepared to swear to that!"
And "Now, sir, just take care!"
And "Come, be cautious what you're at!"
With questions hard to bear.

'And when he'd turned me inside out,
He turned me outside in;
I knew not what I was about,
My brain was all a-spin.
I'm shaking now with nervous fright,
And since I left the court
I've changed my dream-opinion quite—
I don't think Hawkins sport!'

Before concluding the evening, Toole said :

'You remember your joke, Sir Henry, about Miss Brain and her black kids ?'

'Not for the world, not for the world, my dear Toole !'

'Not for the world, Sir Henry, not for the world ; only for us ; not before the boys ! You said it was the best joke you ever made.'

'And the worst. But I was not a Judge then.']

CHAPTER LXIV

ON GRANTING BAIL—THE POWER OF RIDICULE

No Judge has a right to press an argument against a strong probability. Two cases came before me of child murder at Assizes. The evidence against one of the women was so slight that I felt it my duty to express no little astonishment that such grave charges should be brought without sufficient evidence to support them. In both cases the same thing occurred, and, after dealing with the graver charge of murder, the lesser one of concealment of birth was proceeded with.

I felt it my duty to direct an acquittal in each case at the termination of the evidence for the Crown, and, further, made such observations on the conduct of the magistrates as I thought proper and necessary on account of their want of appreciation of the evidence submitted to their tribunal.

In consequence of their lack of discernment, to say nothing more, one of these poor girls had been kept in custody for *three months*. It was easy for them to discharge themselves of an unpleasant duty by sending the case to the Assizes, but it was extremely hard against the accused to be locked up without the slightest proof of guilt.

I always had a very strong opinion on the subject of allowing persons accused of crime to be admitted to bail, which I will deal with in a few observations by-and-by. On this particular occasion I expressed myself to the grand jury in words which I hoped might be remembered by those whose duties are not merely perfunctory, but ought to be in some measure judicial. I told them that they ought, *in every case*, to ask *themselves*, and not merely ask *their clerk*, Is there evidence upon which we, as reasonable men, would say there is a *primâ facie* case to be submitted to a jury? By no means should the question be, Is there evidence upon which we would convict?

I told them that the object of committing a man for trial is that he may present himself at the proper time; and if he can procure bail it ought always to be accepted, unless he is charged with an offence of such a character that probably no amount of bail would be sufficient to insure his appearance at the time appointed. In nine cases out of ten the charges are, in agricultural and rural districts, of larceny committed by persons who are not likely to run away—persons who have lived all their lives in the neighbourhood, and to whom running away would be almost an impossibility. A labouring man, for instance, who does not earn anything like a pound a week, and could not find bail to the extent of £5, when the crime is not a serious one, should, in my opinion, be let out on such bail as he can reasonably give. A week's wages would be amply sufficient, and if he could not procure that I see no reason why he should not be let out without any surety at all.

I know it has been said, but I do not agree with it, that the meaning of the Legislature was that a person before being liberated on bail should find sureties; but if a man, after being *convicted*, can be let out on his own recognisances to come up for judgment, it seems to me that he ought to be let out under similar conditions before he has been found guilty.

[Public bodies are too often immovable by remonstrance or prayer so far as the benefit of the public is concerned. Amongst the manifold changes of the world, their hearts are firmly fixed where their own interest or convenience is found. They are immutable. Bumbledom adjusts his three-cornered hat, plants his tasselled cane firmly in front of him, and, looking up at vacancy, says, with husky voice, 'I shan't do nothink, and the world shan't make me do nothink.'

It was thus with the Judge's lodgings at —— for centuries—'I shan't do nothink,' although the lodgings were so unhealthy that Judge after Judge had complained bitterly of the discomfort of the place into which he was thrust after his hard day's work in the no less unhealthy court was finished.

The Sheriff's carriage, in all the pomp of gorgeous heraldry and varnish, with richly caparisoned horses and powdered coachman, with two magnificent footmen holding their wands of office in the rear, drove up to a *den*, but they drove up only a journey of half a dozen paces, since the horses' heads were at the door of the lodgings while the carriage wheels were at the entrance to the court.

It happened that at an autumn Assize Sir Henry Hawkins was the Judge on circuit, and happily a sheep-stealing case came before him under peculiar circumstances.

The stealing had taken place in August just after the

Summer Assizes; the sheep had to be killed, and their skins were preserved in a box, to be produced at the trial for the purpose of identification by the farmer, to whom the sheep belonged, and who swore to them by his brand.

Sir Henry, in the hottest days, never allowed a window or door to be kept open; the air, therefore, in a densely-crowded court was none of the purest; but when the skins were unpacked, having been in the box for months, the odour was almost insufferable, and many persons were ill.

After identification of the skins the counsel for the prosecution asked the Judge if they might be taken away.

Perfectly indifferent as to any cumulative smell in that neighbourhood, he said: 'Yes; oh yes, you may take them away if you wish it.'

Then the policeman in charge of the skins asked where he should take them to.

'You had better,' said Sir Henry, '*take them to the drawing-room of the Judge's lodgings; the smell will not be noticed there.*'

Everybody laughed who was well enough to do so, except the Judge, who looked in front of his desk without a smile.

The next day the local press teemed with the story and amusing leading articles. The local press at last had got Bumbledom in a corner, and belaboured him with such effect that before the next Assizes the lodgings had been rendered fit for human habitation.

Authority never listened to judicial remonstrance, but it succumbed to the power of ridicule, which sometimes removes mountains.*]

* I owe the revival of this episode to my learned friend, Mr. Hammond Chambers, K.C.—R. H.

CHAPTER LXV

A FULL MEMBER OF THE JOCKEY CLUB

I KNEW a great many men connected with the Turf, from the highest to the humblest, but although I have spent the most agreeable hours amongst them, there is little which, if written, would afford amusement—everything in a story or a *bon mot*, a repartee or a joke, depends, like a jewel, on its setting. At Lord Falmouth's, my very old and esteemed friend, I have spent many jovial and happy hours. He was one of the most amiable of hosts, and of a boundless hospitality ; ran many distinguished horses, and won many big races. I used to drive with him to see his horses at exercise before breakfast, and in his company visited some of the most celebrated men of the day, who were also amongst the most distinguished of the Turf. Amongst these was Prince B——, whose fate was the saddest of all my reminiscences of the Turf. I almost witnessed his death, for it took place nearly at the moment of my taking leave of him at the Jockey Club. There was a flight of stairs from where I stood with him, leading down to the luncheon-room, and there he appears to have slipped and fallen.

I don't know that it was in consequence of this accident, or whether it had anything to do with it, but I seemed after this sad event to have practically broken my connection with the Turf, and yet perhaps I was more intimately attached to it than ever, for Lord Rosebery asked me (I being an honorary member of the Jockey Club) whether there was any reason, so far as my judicial position was concerned, why I should not be elected a *full member*. I said there was none. So his lordship proposed me, and I was elected.

The only privilege I acquired by 'full membership' was that I had to pay ten guineas a year subscription instead of nothing. I almost regularly had the honour of being invited, with other members of the club, to the entertainment given by H.R.H. the Prince of Wales on the Derby night—a festivity continued since His Majesty's accession to the throne. Nor shall I forget the several occasions on which I have had the honour to be the guest of His Gracious Majesty at Sandringham; and I mention them here to record my respectful gratitude for the kindness and hospitality of their Majesties the King and Queen whenever it has been my good fortune to be invited.

Speaking, however, of racing men, I have always thought that the passion for gambling is one of the strongest propensities of our nature, and once the mind is given to it there is no restraint possible, either from law or pulpit. Its fascination never slackens, and time never blunts the keen desire of self-gratification which it engenders, while the grip with which it fastens upon us is as fast in old age as

in youth. It will absorb all other pleasures and pastimes. I will give an instance of what I mean. There was a well-known bookmaker of my acquaintance whose whole mind was devoted to this passion; his whole life was a gamble; everything seemed to be created to make a bet upon. Do what he would, go where he would, his thoughts were upon horse-racing.

I was staying with Charley Carr, the owner and occupier of Baddington Park, with a small party of guests invited for shooting. One morning there was to be a rabbit-killing expedition, and, after a pretty good morning's walk, I had a rest, and then leisurely went along towards the trysting-place for lunch. It was a large oak-tree, and as I came up there was Hodgson, the bookie, who did not see me, walking round the rabbits, which lay in rows, counting them, and muttering '*Two—four—twenty*,' and so on up to a hundred. He then paused, and after a while soliloquized: 'Ah! fancy a hundred! One hundred *dead uns!* What would I give for such a lot for the Chester Cup?'

His mind was not with the rabbits except in connection with his betting-book on the Chester Cup. He was by no means singular except in the manner of showing his propensity. The devotees of 'bridge' are all Hodgsons in their way.

At Benchers' table one night I was speaking of Clarkson in a case at the Old Bailey. He had been with me in consultation in a very bad case. We had not the ghost of a chance of winning it, and indicated our opinion to that effect to the unhappy client.

He turned from us with a sad look, as if desperation had seized him, and then, with tears in his eyes, asked Clarkson if he thought it advisable for him to *surrender* and take his trial.

'My good man,' said Clarkson, 'it is my duty as a loyal subject to advise you to surrender and take your trial, *but, if I were in your shoes*, I'll be damned if I would!'

The man, however, for some reason or other, *did* surrender like a good citizen, and the man who did not appear was his own leading counsel Clarkson. He never even looked in, and the conduct of the case, therefore, devolved on me. I did my best for him, however, and succeeded. The man was acquitted.

Not content with this piece of good fortune, for such indeed it was, he was ill-advised enough to bring an action for *malicious prosecution*. Lord Denman tried it, and told him it was a most impudent action, and he was astonished that he was not convicted.

During this conversation another, as I have been informed, took place, and Lord Westbury is reported to have said:

'I did not assert that the House of Lords had abolished hell with costs, although I have no doubt that the large majority would gladly assent to any such decree—all, in fact, except the Bishops.'

As I never listen to after-dinner theology, I forbear comment on this subject; but before this time there had been a curious action brought by a churchwarden against his Vicar for refusing to administer

the Sacrament to him, on the ground that he did not believe in the personality of the devil. After the decisions in the courts below, it was finally determined by the House of Lords that the Vicar was wrong. Hence it was that Westbury was reported to have said that the House of Lords had abolished hell with costs. 'What I did say,' said Westbury, 'was that the poor churchwarden who did not at one time believe in the personality of the devil returned to the true orthodox Christian faith when he received his attorney's bill.'

Turning to me, his lordship said :

'My dear Hawkins, you shall write your reminiscences, and, what is more, they shall be printed in good type, and, what is more, the first copy shall be directed to me.'

And so it should be if I only knew his address.

CHAPTER LXVI

THE LITTLE MOUSE AND THE PRISONER

I COME now to a little event which occurred during my judgeship, and which I call my little mouse story. It took place on October 30, 1900.

I was presiding as Judge at the Old Bailey Sessions of that autumn, and a case came before me of a prisoner who was undergoing a term of two years' imprisonment with hard labour for some offence against the Post Office.

The charge against him on the present occasion was attempting to murder or do some grievous bodily harm to a prison warder. This officer was on duty in the prisoner's cell when the assault took place.

The facts relied on by the Crown were simple enough. The warder had gone into the cell to take the man's dinner, when suddenly the prisoner seized the knife brought for his use, and made a rush at the warder with it in his hand, at the same time uttering threats and imprecations.

Believing his life to be in danger, the warder ran to the door and got outside into the adjoining corridor, pulling the cell-door to after him and closing it.

He had no sooner escaped than the prisoner struck a violent blow in the direction the warder had gone, but the door being closed, it fell harmlessly upon it. It left such a mark, however, that no doubt could be entertained as to the violence with which it was delivered and the probable result had it reached the warder himself.

Thus presented, the case looked serious. Mr. Montagu Williams, who was counsel for the Crown, felt it to be, as it undoubtedly was, his duty in common fairness to present not only the bare facts necessary for his own case, but also those which he felt might be relied upon by the prisoner as his defence, or at all events in mitigation of punishment. In performing this duty, he elicited from his witness a very touching little history of the origin and cause of the crime. It was this:

A poor little mouse had, somehow or other, managed to get inside the prisoner's cell; and one day, while the unhappy man was eating his prison fare, he saw the little mouse running timidly along the floor. At last it came to a few crumbs of bread which the prisoner had purposely spread, and ran away with one of them into its hiding-place. The next day it came again, and found more crumbs; and so on from day to day, the prisoner relieving the irksomeness and the weary solitude of his confinement by tempting it to trust him, and become his one companion and friend, till at last it became so tame that it formed a little nest, and made its home in the sleeve of the prisoner's gaol clothes. During the long hours of the dreary day it became his companion and pet; played

with him, fed with him, and shared his prison food; it even slept with him at night.

They were inseparable friends.

All this was, of course, against the prison rules. But the mouse had no reason to obey them.

One unhappy day a warder came into the cell, when the poor little mouse peeped out from his tiny hiding-place, and the officer, I presume, as a matter of duty, seized the little intruder on the spot and captured it.

'God help the world if everyone did his strict duty in it!' But—what to the prisoner seemed inexcusable barbarity—he killed the poor little mouse in the very sight of the unhappy man whose friend and companion it had been. This infuriated him to such an extent that, having his dinner-knife in his hand—the knife which would have assisted at the mouse's banquet as well as his own—he rushed at the warder, who fortunately escaped, as I have said, through the open door of the cell, the prisoner striking the knife into the door. No harm was done, though probably harm was intended.

In the result the prisoner was indicted before me, as I have said, on the charge of attempting to murder the warder. The defence to the charge was that, as murder in the circumstances was impossible, *the attempt could not be established*, and, on the authority of a case (which has, however, since been overruled), I felt bound to direct an acquittal; and I confess *I was not sorry* (technically) to come to that conclusion, for it would have been a sad thing had the prisoner been convicted of an offence committed in a moment

of such great, and not unnatural, excitement, and one for which penal servitude must have been awarded.

The poor fellow had suffered enough without additional punishment. I can conceive nothing more keen than the torture of returning to his cell to grieve for the little friend which could never come to him again.

CHAPTER LXVII

STORIES I REMEMBER OF THE BRUTALITY OF OUR LAWS

It is a very long time ago, but I remember when I was a child three men, named respectively Marshall, Cartwright, and Ingram, were charged with having committed a burglary in the house of a gentleman named Pym, who lived in a village in Hertfordshire, Marshall being at that time, and Cartwright having previously been, butler in the gentleman's service. Ingram had been a footman in London.

The burglary was not in itself of an aggravated character. Plate only was stolen, and that had been concealed under the gravel bed of a little rivulet which ran through the grounds.

No violence or threat of violence had been offered to any inmate of the house, yet the case was looked upon as serious because of the position of trust which had been held by the two butlers.

Ingram was admitted as King's evidence. The butlers were convicted, sentenced to death, and hanged, whilst Ingram was, according to universal practice, set at liberty. Before the expiration of a year, however, he was convicted of having stolen a

horse, and as horse-stealing was a capital offence at that time, he suffered the penalty of death at Hereford.

It was a curious coincidence that only a year or two afterwards a man named Probert, who had given King's evidence upon which the notorious Thurtell and Hunt were convicted of the brutal murder of Weare and executed, was also released, and within a year convicted of horse-stealing and hanged.

Those were days in which the criminal law of England was in a very brutal state, and men, and women too, were sometimes, and not infrequently legally, put to death for offences which few Judges nowadays would dare to visit with a sentence of penal servitude without arousing a public outcry, and no humane Judge would visit with more than a few months, or it may be weeks, of imprisonment.

At that time condemnation to transportation for life was inflicted on many a petty larcener who for a second time was convicted of *felony*.

Before me is an old calendar, which may be interesting to the reader, as showing that the law is somewhat keeping pace with what is called the march of civilization.

THE CROWN CALENDAR

FOR THE LINCOLNSHIRE LENT ASSIZES

Holden at the Castle of Lincoln on Saturday the 7th of March, 1818, before the Right Honorable Sir Vicary Gibbs and the Honorable Sir William Garrow.

JOHN CHARLES LUCAS CALCRAFT, Esq., Sheriff.

1. William Bewley, aged 49, late of Kingston upon Hull, pensioner from the 5th Regt. of foot, committed July 29, 1817, charged on suspicion of having feloniously broken into the dwelling house of James Crowder at Barton, no person being therein, and stealing 1 bottle green coat, 1 velveteen jacket, 3 waistcoats, &c. Guilty—Death.

2. John Giddy, aged 22, late of Horncastle, tailor, com. Aug. 5, 1817, charged with stealing a silver watch with a gold seal and key, from the shop of James Genistan of Horncastle. Six Months Imprisonment.

3. George Kirkham, aged 25,
4. John Colston Maynard, aged 19, } both late of Stickney, laborers, com. Aug. 22, 1817, charged on suspicion of feloniously entering the dwelling house of Wm Bell of Stickney, between 9 and 10 o'ck in the morning, and stealing one £5 note and 8 £1 notes. Acquitted.

5. George Crow, aged 15, late of Frith Ville, com. Sept. 23, 1817, charged on suspicion of having entered the dwelling house of S. Holmes of Frith Ville, about 7 o'ck in the morning, breaking open a desk, and stealing three £1 notes, 3s. 6d. in silver, and a purse. Guilty—Death.

6. Thomas Young, aged 17, late of Firsby, laborer, com. Sept. 23, 1817, charged with having, about 11 o'ck at night, entered the dwelling house of John Ashlin of Firsby, with intent to commit a robbery. Guilty—Death.

7. Robert Husker, aged 28,
8. John Robinson, aged 28, } both late of Glamford Briggs, laborers, com. Oct. 13, 1817, charged with burglariously breaking into the dwelling house of Chas. Saunby, of South Kelsey, and stealing therefrom several goods and chattels. Guilty—Death.

9. John Marriott, aged 19, late of Osgodby, laborer, com. Oct. 18, 1817, charged with maliciously and feloniously setting fire to an oat stack, the property of Thomas Marshall of Osgodby. Guilty—Death.

10. Sarah Hudson, alias Heardson, aged 25, late of Newark, Nottinghamshire, com. Oct. 24, 1817, charged on suspicion of feloniously stealing from the cottage of James Barrell of Aisthorpe, in the day time, no person being therein, 6 silver tea-spoons and a pair of silver sugar tongs. Discharged by Proclamation.

11. Elizabeth Firth, aged 14, late of Burgh cum Girsby, spinster, com. Nov. 22, 1817, charged with twice administering a quantity of vitrol or verdigrease powder, or other deadly poison, with intent to murder Susanna, the infant daughter of George Barnes of Burgh cum Girsby. No true Bill.

12. John Moody, aged 28, late of Stallingborough, laborer, com. Dec. 24, 1817, charged with having committed the odious and detestable crime and felony called sodomy. Indicted for misdemeanor. Two years imprisonment.

13. William Johnson, aged 28, late of Bardney, laborer, com. Dec. 29, 1817, charged with having burglariously entered the dwelling-house of W^m^ Smith, of Bardney, and wilfully and malliciously beating and wounding, with intent to murder and rob Wm. Kirmond, a lodger therein. Seven Years Transportation.

14. Richard Randall, aged 27,
15. John Tubbs, aged 29, } both late of Lutton, laborers, com. Dec. 29, 1817, charged with feloniously assaulting Wm. Rowbottom of Holbeach Marsh, between 11 and 12 o'ck in the night, in a field near the king's highway, and stealing from his person 3 promissory £10 notes, 8 or 10 shillings in silver, one silver stop and seconds watch, and various other goods and chattels. Both Guilty—Death.

16. William Hayes, aged 20, late of Braceby, weaver, com. Jan. 6, 1818, charged with feloniously stealing a mare, together with a saddle and bridle, the property of Ed. Briggs of Hanby. Guilty—Death.

17. Thomas Evison, aged 24,
18. Thomas Norris, aged 28, } both late of Alnwick, laborers, com. Jan. 21, 1818, charged with feloniously setting fire to a thrashing machine and a hovel, containing a quantity of oats in the straw, the property of Thos. Faulkner, jun. of Alnwick, which were all consumed. Guilty—Death.

19. William Walker, aged 20, laborer,
20. Elizabeth Eno, aged 19, spinster, } both late of Boston, com. Jan. 28, 1818, charged with burglariously entering the dwelling house of Wm. Trentham, and stealing a sum of money in gold and silver, several country bank notes, and a red morocco pocket book. Guilty—Death.

21. William Bell, alias John Brown, aged 30, late of Alvingham, laborer, com. Feb. 19, 1818, charged with burglariously breaking into the shop of Wm. Goy of Alvingham, and stealing 1 pair of new shoes, 1 half boot, and 1 half boot top. Guilty—Death.

22. John Hoyes, aged 48, late of Heckington, com. Feb. 24, 1818, charged with feloniously stealing 2 pigs of the value of £3 the property of John Fairchild of Wellingore. Acquitted.

23. Christiana Robinson, aged 24,
24. Mary Stewart, aged 26, } both late of Glamford Briggs, com. March 7, 1818, charged with breaking into Chas. Saunby's shop, &c. (same as No. 7 and 8). Not prosecuted.

Prisoners under Sentence.

George Houdlass, convicted at Lammas Assizes, 1815, of mare stealing.—Ordered to be transported for the term of his natural life. (The Prince Regent, in the name of His Majesty, having graciously extended the Royal Mercy to the said convict, his said sentence is commuted to two years imprisonment, commencing July 1, 1817.)

Martin Dowdwell, convicted at the Lent Assizes, 1817, of

perjury.—Ordered to be impillored once and imprisoned for two years.

Sussana Pepper, convicted at the Lammas Assizes, 1817, of secreting the birth of her bastard child.—Ordered to be imprisoned for one year.

William Whitehead (the younger); at the Summer Assizes, 1817, was found by a jury to be of unsound mind.—Ordered to be imprisoned until his Majesty's pleasure be known.

Edward Croft, convicted at the Louth quarter sessions, held Jan. 12, 1815, of a felony.—Ordered to be transported for seven years.

John Caminack, convicted at the Spilsby quarter sessions, Jan. 17, 1817, of a felony.—Ordered to be transported for seven years.

William Busbey, convicted at the same sessions, of a felony. —Ordered to be transported for seven years.

William Nubert, convicted at the Lent Assizes, 1817, of burglary.—Ordered to be transported for seven years.

William Patchett, convicted at the same Assizes of burglary. —Ordered to be transported for seven years.

Richard Clarke, convicted at the Summer Assizes, 1817, of having forged bank notes in his possession.—Ordered to be transported for fourteen years.

Thomas Maddison, convicted at the same Assizes of burglary.—Ordered to be transported for seven years.

James Donnington, convicted at the same Assizes of stealing a lamb.—Ordered to be transported for seven years.

Samuel Brown, convicted at the same Assizes of stealing a mare.—Ordered to be transported for the term of his natural life.

Joseph Greenfield, convicted at the same Assizes of stealing a heifer.—Ordered to be transported for fourteen years.

William Johnson, convicted at the Spilsby quarter sessions, July 25, 1817, of a felony.—Ordered to be transported for seven years.

William Willson, convicted at the Kirton quarter sessions, Oct. 17, 1817, of a felony.—Ordered to be transported for seven years.

Henry Thorpe, convicted at the Bourn quarter sessions, Jan. 13, 1818, of a felony.—Ordered to be transported for seven years.

George Croft, convicted at the Boston quarter sessions, Jan. 13, 1818, of a felony.—Ordered to be transported for seven years.

William Betts, alias Bungs, convicted at the Spalding quarter sessions, Jan. 16, 1818, of a felony.—Ordered to be transported for seven years.

James Tidwell, convicted at the same sessions of a felony.—Ordered to be transported for seven years.

Samuel Chapman, convicted at the Spilsby quarter sessions, Jan. 16, 1818, of a felony.—Ordered to be transported for seven years.

David Jones, convicted at the Kirton quarter sessions, Jan. 20, 1818, of a felony.—Ordered to be transported for seven years.

IN HIS MAJESTY'S GAOL IN THE CITY OF LINCOLN.

1. Daniel Elston, aged 34, late of Waddington, cordwainer, com. Sep. 22, 1817, charged with feloniously stealing from the dwelling-house of Rd. Blackbourn of Waddington, one silver watch, and a pair of new quarter boots.—Guilty of stealing only—7 years transportation.

2. William Kehos, aged 22, a private soldier in the 95th Regt. of foot, com. Nov. 17, 1817, charged with feloniously slaughtering and stealing from the close of Mathew White of Lincoln one wether hog.—Guilty—Death.

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In those days justice was almost synonymous with punishment in the criminal courts.

Some Judges seemed to have no feeling, and to think no one else had. But it is not true that they had no feeling or sympathy. They were only

what the law compelled them to be, and administered its judgment in accordance with its dictates.

The calendar for the Assize at Lincoln which I have given shows the condition of the law and of its victims at that time. At every Assize it was like a tiger let loose upon the district. The calendar will speak for itself, and its language needs no comment. If a man escaped the gallows in those days he was lucky, while the criminals were by no means the hardened ruffians who had been trained in the school of crime; they were mostly composed of the most ignorant rural labourers—if, indeed, in those days there were any degrees of comparison in ignorance, when to be able to read a few words by means of spelling them was considered a prodigious feat.

Jurors often endeavoured to mitigate the terrors of the law by finding that the stolen property, however valuable it might be, was of less value than five shillings. May the recording angel 'drop a tear over this record of perjury and blot it out for ever.'

CHAPTER LXVIII

THE LAST OF LORD CAMPBELL—WINE AND WATER —ANOTHER STORY OF SAM WARREN

Life, alas! must have its sad stories as well as its mirthful. I have told few of the former, not because they have not been present to my mind, but because I think it useless to perpetuate them by narration. But for its occasional gleams of humour, life would indeed be dull, and ever eclipsed by the shadow of sorrow.

One of the stories the Chief Baron told me is as indelibly fixed on my memory as it was on his. Lord Campbell had been so long and so prominently before the country that his death would be a theme of conversation in the world of literature, science, law, and fashion. But it was not his death that impressed me; it was the incidents that immediately attended it.

'His lordship'—thus was the event related—'had been entertaining a party at dinner, and amongst them was his brother-in-law, Colonel Scarlett. In its incidents the dinner had been as lively and agreeable as those events in social and refined life usually are. Scarlett had an important engagement with Campbell in the city on the following Monday, this being

Saturday night. As he rose to go Scarlett wished his host good-night with a hearty shake-hands.

'"Good-night—good-night; we shall meet again on Monday."'

Alas! Campbell died that night suddenly, and, by a singular interposition of Providence, Scarlett died suddenly the next day, Sunday. They met no more in this world.

In the course of my life I have suffered, like many others, from nameless afflictions—nameless because they do not exist. No one can localize this strange infirmity or realize it. You only know you have a sensation of depression. In every other respect I was perfectly well, yet I thought it was necessary to see a doctor. So it was, if I wished to be ill.

Being in this unhappy condition, I consulted Sir James Paget, then in the zenith of his fame.

It did not take him very long to test me. I think he did it with a smile, for I felt a good deal better after it.

'Just tell me,' said he, 'do you ever drink any water?'

'Now it's coming,' I thought; 'he's going to knock me off my wine.' I thought, however, I would be equal to the occasion, and said:

'I know what you are driving at: you want to know if I ever mix a little water in my wine.'

'No, no, I don't,' said he; 'you are quite wrong, for if your water is good and your wine bad, you spoil your water, and if your wine is good and your water bad, you spoil your wine.'

I took his advice—which was certainly worth the fee—and never mixed my wine with water after that, although I have some doubt as to whether I had ever done so before.

I came away in good heart, because I was so delighted that there was not a vestige of anything the matter with me.

I am reminded of another story about Sam Warren, than whom no writer was ever more solicitous of fame. It was a proud moment whenever there was the remotest allusion to his authorship, and I always loved to compliment Sam on his books.

In the famous case of Lord St. Leonards' will, which had been lost, I supported the lost will, and proved its contents from the evidence of Miss Sugden and others.

Sam Warren had been in the habit of visiting Lord St. Leonards at Boyle Farm, Ditton. He gave evidence as to what Lord St. Leonards had told him respecting his intentions as to the disposal of his property.

After examining him, I said, with a polite bow: 'Mr. Warren, I owe you an apology for bringing you into the Probate Court. I am sure no one will ever dream of disputing *your* will, because you have left everybody "*Ten Thousand a Year!*"'

Whereupon Warren bowed most politely to me in acknowledgment of the compliment; then bowed to the *Judge*, and received his lordship's bow in return; then bowed to the *jury*, then to the *Bar*, and, lastly, to the *gallery*.

CHAPTER LXIX

SIR THOMAS WILDE

With a view to enable me to give each case due consideration before fixing the poor wretch's doom after conviction, as I have said elsewhere, I invariably ordered the prisoner to stand down until all were tried.

I then spent a night in going through my notes in each case, so that if there was any circumstance that I could lay hold of by way of mitigation of the sentence I did so.

I do not mean to say that I did this in trifling cases, such as a magistrate could dispose of, but in all cases of magnitude possibly involving penal servitude.

Once, however, I had made up my mind as to what was, in accordance with my judgment, the sentence to be passed, I took care never to alter it upon any plea in mitigation whatever.

For this line of conduct I had the example of Sir Thomas Wilde, when, as Lord Chief Justice of the Court of Common Pleas, he travelled the Home Circuit. He was a marvellous and powerful Judge in dealing with the facts of a case. He had tried a prisoner for larceny in stealing from

a house a sack of peas. The prisoner's counsel had made for him a very poor and absurd defence, in which, over and over again, he had reiterated that one pea was very like another pea, and that he would be a bold man who would swear to the identity of two peas.

This miserable defence made the Lord Chief Justice angry, and he summed up the case tersely but crushingly to this effect: 'Gentlemen, you have been told by the learned counsel very truly that one pea is very like another pea, and if the only evidence in this case had been that one pea had been taken from the house of the prosecutor, and a similar pea had been found in the prisoner's house, I for one should have said it would have been insufficient evidence to justify the accusation that the prisoner had taken it.

'But such are *not* the facts of this case; and when you find, as was the fact here, that on March 30 a sack appears in a particular place, marked with the prosecutor's initials, safe in his house at night, where it ought to have been, but was not, on the morning of the 31st; and when you find that on that morning a sack of peas of precisely similar character was in the house of the prisoner in a precisely similar sack behind the door, the question very naturally arises, *How came* those peas in that man's house? He says he found them; do you believe him? Did it ever occur to you, gentlemen, to find a similar sack of peas in the dead of the night on any road on which you chanced to be travelling?

'The prosecutor says the prisoner stole them, and

that is the question I ask you to answer. Did he or not, in your opinion, steal them?'

I need not say what the verdict was.

The man was *put back for sentence.* That is the point I am upon.

On the following morning the Lord Chief Justice, still a bit angry with the prisoner's counsel for the miserable imposture he had attempted upon the jury, said:

'God forbid, prisoner at the bar, that the defence attempted by your counsel yesterday should aggravate the punishment which I am about to inflict upon you; and with a view to dispel from my mind all that was then urged on your behalf, I have taken the night to consider what sentence I ought to pronounce.'

Having said thus much about the speech for the defence, he gave a very moderate sentence of two or three months' imprisonment. Every sentence that this Chief Justice passed had been well thought out and considered, and was the result of anxious deliberation—that is to say, in the serious cases that demanded it.

Of course, I do not claim for my adopted system an infallibility which belongs to no human device, but only that during some years, by patiently following it, I was enabled the better to determine how I could combine justice with leniency.

CHAPTER LXX

BABY-FARMING

[ONE of the greatest and cruelest of criminals that ever appeared before Sir Henry Hawkins was a woman of the name of Dyer. In May, 1896. at the Old Bailey, she was arraigned and charged with the murder of a little child, one of two children found in a carpet bag at a place called 'The Clapper's Pool' at Reading.

To give this case its proper importance in the life of Lord Brampton and in the history of this country, it must be stated that prior to that year (1896) 'baby-farming,' as it was called, was carried on all over the country, while the Government did not know the amount of crime which was perpetrated in these terrible *homes for little children* ostensibly *taken in to nurse.*

At all events, the Government took no step whatever to put an end to a system of wholesale murder. The reason I will give presently, from the lips of its principal law officer soon after the Dyer case.

I do not know the minds of politicians, still less those of statesmen, but I am quite sure that up to the time of the Dyer revelations they would as soon have concerned themselves as to the number of kittens drowned in the year as inquire into the circumstances of the many illegitimate babies which were *taken in to nurse.*

One could hardly expect it. Sufficient zeal was shown, so far as the Attorney-General or the Public Prosecutor was concerned, by the familiar headings in the newspaper paragraphs: 'Another Baby-Farming Case—Shocking

Revelations'; 'Four Children Dead in One House'; 'Two Children Starved to Death'; 'Child Found in a Water-butt'; and such-like sensational items of 'intelligence.'

It is by no means my intention to give the details of the ghastly case which I have now brought into the life of Lord Brampton. The object is of wider range than sensation-mongering, and of deeper interest.

Lord Brampton wrote, March 4, 1904: 'I sent you Dyer's case because it revealed such a system of infant murder as to give it real importance. I cannot say how many children were put out of the way by her and were consigned to watery graves in the Thames, but a good many.'

'The murders were committed as soon as the poor children were taken into their slaughter-house. Body after body was dragged up from the river, though the identity was destroyed by time. . . .'

The whole of the details necessary to insert in this book I extract from the address of Sir Henry Hawkins to the jury and to the prisoner before pronouncing sentence of death, and this only for the purpose of showing the terrible inadequacy of our law down to nearly the end of the nineteenth century to meet such a state of things.

'The child was alive,' said his lordship, 'at the door of No. 76, Mayo Road, on the night of March 30. Where was it the next morning? The jury must consider that question in the light of its previous history and its ultimate deposit in "the little carpet bag." It was angrily shaken, spoken to as "You little devil!" and then the lifeless form was thrown on the sofa and covered with a shawl which allowed no part of its body to be visible. Nobody saw it till it was found dead on April 2.'

In addressing the woman after conviction, he said:

'You have been found guilty upon as conclusive evidence as it is possible to imagine of the murder of the poor little girl whom you took from its mother.

You took it, not to your home at Reading, but to the place where you afterwards slaughtered it that very night. It was said of you by your learned counsel that you were not responsible for that barbarous and wicked act, because you were labouring under the affliction of the Almighty which rendered you incapable of knowing what you were doing, or of knowing that you were doing a wicked and cruel act. But the whole circumstances show that this was a cunningly devised plan to get into your possession the sum of £10 by the false pretence that you would be a mother to that poor little baby whom you destroyed. . . . . On the following day, by the same pretences, for the same sordid object, you got possession of another little child. Him you slaughtered on the very evening that you got him into your possession. In order to conceal your guilt you buried these little ones in a carpet bag beneath the waters of the Thames. I wish I could suppose that your cruelty and wickedness stopped even here. I am afraid, however, from all I have heard during the course of this case, that you have carried on this wicked and cruel trade for many a long day, and pray to God that He may be more merciful to you than you were to these poor, innocent, unprotected infants.'

That is all I intend to say of that awful trial itself. But it is not all that is necessary to say as to the state of guilty traffic in human life which not one, but a succession of Governments had allowed to exist for such a number of decades, so that 'baby-farming' became at last almost a recognised business and profession. It is one of the appalling mysteries of the nineteenth century. Nor is it too much to say that not only all England, but the whole civilized world, was shocked with the revelation of horrors that this trial afforded, and probably nothing would have been done if the defence of insanity had succeeded; Government might have slept again until another of the startling horrors had roused them from their lethargy.

But Sir Henry Hawkins disposed of the myth of insanity with a question or two which I think proper to quote.

Dr. Forbes Winslow said the prisoner was of *unsound mind*, suffering from delusions and melancholia, and stated that *she had no recollection of the crime*—that is, that *she told him so;* that there was nothing in her demeanour to suggest that she was shamming insanity. He *presumed* that any such attempt would be apparent.

The Judge: 'Why do you *presume?*'

Answer: 'It depends upon the clumsiness of the sham!'

And then she told him she 'felt in a dream,' and other nonsense, entirely her own statements, and about hearing noises and seeing visions, so that, concluded the learned physician, 'there was a *primâ facie* case in favour of the opinion that she was *non compos.*'

'People who hear voices often commit murder, don't they?' asked the counsel for the prisoner.

'Yes,' said his lordship, 'and so do people who don't hear voices.'

Talking of people hearing voices telling them to commit suicide, and that this woman had *said* she heard voices, 'If she had heard them,' said the doctor, 'I should have expected her to commit suicide, but she had not done so.'

Sir Henry Hawkins: 'Do not *sane* people sometimes commit murder?'

'Yes, my lord.'

These two questions disposed of the theory of the defence.

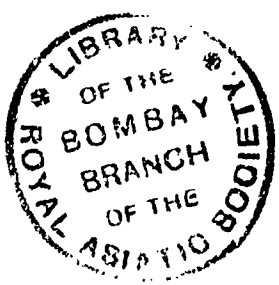
The Dyer case was of national importance, inasmuch as it was the forerunner of the Infant Life Protection Act of 1897. After this trial the Attorney-General, on being told it was a disgrace to any Government to allow 'baby-farming' any longer to exist, said, 'What can you do to prevent it? There is an Infant Life Protection Society, with Lord Herschell at its head.'

'Pass a short Act of half a dozen clauses, and abolish the system.'

'Do it,' answered the learned gentleman ironically.

It was done the next day, and in a few weeks became the Infant Life Protection Act of 1897, marred only by one defect—namely, a clause, introduced in Parliament, which seems to exempt from protection children where a sum of twenty pounds is paid down when the child is deposited in its home.

Some day, of course, that fatal clause will be repealed. For the purpose of these reminiscences it is enough that the Dyer case was the cause of a stop being put to 'children being received into their slaughter-houses.' Up to that time murder was not only a fine art, but a profitable commercial transaction. It was cheaply done, but the numbers paid. Governments were quiescent and Attorney-Generals indifferent.]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CHAPTER LXXI

'I SHOULD LIKE TO ASK YOU——

[An enthusiastic young advocate, who was in a somewhat serious case at Northampton, gave me a very graphic account of the way in which he was baffled by the Judge, and I was rather amused when he said he was a 'nailer,' whatever that may mean. However, it will be best for him to tell the story in his own way. It will at least illustrate one phase in Sir Henry's character on the Bench.

'Once upon a time, at Northampton Assizes, several daring gangs of burglars were tried before Sir Henry Hawkins. There was a Birmingham gang most worthy of his attention, and a *Bedford gang*, nothing to do whatever or in any way connected with Birmingham, but I hoped, as Sir Henry belonged once upon a time to a Bedford gang himself, he might possibly have a little sympathy with my clients.

'I believe I should have had a good run for them had it not been apparent pretty early in the case that Hawkins meant to ladle it out to the whole of the lot with the strictest notion of impartiality.

'During the whole case I never had a look in; if I made a point, as I thought, it was twisted out of all recognition by a simple question which Sir Henry put in the most simple manner by way of explanation.

'"*I should like to ask you*——," "Perhaps you can tell me?" or some other little inquiry, upset an elaborately devised cross-examination, which I thought

was skilful and conceived after the best models. I never was more deceived in my life, and almost believed the witnesses for the defence were in a conspiracy to convict the prisoners, for they also said exactly what the Judge wanted them to say, and unsaid all that they had deposed on behalf of my clients. I did not believe they were guilty until my own witnesses answered a question or two in explanation.

'Although not disappointed, I was chagrined. As I was coming down the corridor later in the evening, I felt an arm thrust gently under my own. I thought it was my friend the clerk of the peace for Northampton until I saw an ermined sleeve and heard a voice saying:

'"You did not think I was going to let you beat me, did you?"'

At Lincoln there is a graveyard within the Castle Grounds whose occupants were the murderers and robbers of bygone years. No place was ever so ghastly to the imagination or more beautiful in its picturesque landscape. It is a spot that has been the scene of war and tumult, and beneath its turf slumber hundreds whose dark deeds are their only claim to remembrance. Here lies a woman who nearly half a century ago poisoned her husband by putting arsenic into his teapot; and near her lies a woman who poisoned her husband thirty years later in a similar manner, having learnt the trick by being in the gallery listening to the trial of the other woman. I believe Mr. Lawrance, as a young man, defended the first, and as a Judge tried the second.

But this is mere description.

On a wintry night, as the wind was raving and the clouds scudding past the moon, two barristers made up their minds at the stroke of midnight to hear the cathedral bell boom out the hour when ghosts and goblins are supposed to hover over the resting-places of the dead.

Surely if ghosts were ever seen it would be here, where

tree and shrub and waving grass seemed to mourn the wickedness that lay slumbering beneath.

But apart from sentiment, the two friends started on their exploration, and entering the spacious lawn in front of the castle, turned to the long steep flight of stone steps that led to the graveyard above. They were the steps up which the body of every malefactor who had been hanged on the opposite wall facing the great Roman road to Barton-on-Humber had been carried for centuries.

Up these our valiant heroes climbed, full of life's ambition, and newly come from circuit mess, bold as champagne and a good conscience could make them. The more they ascended the more weird the scene; the voluminous ivy on the wall sighed, and as the gusts came with more violence moaned, while the trees shrieked. As they reached the huge, heavy studded oak door, which they scarcely seemed to like to touch for fear of hurting it, an owl flew past with so sudden a flight that my friends were inclined to fly too, and hasten to the cosy mess-room at the White Hart. But they were too brave for that, and once more approached the door. Gently, gently they pushed it, when they were startled by the dismal grating of its hinges, as if someone were behind it, some ghostly victim of one of the murderers below.

It was a weird sight indeed. They peeped, and once more were confounded by what seemed to be an unearthly sight—a veritable ghost. They could not fly now if they would, for nothing is so unearthly as a ghost, and nothing rivets you so firmly to the spot. They could not move—that is to say *voluntarily*—so they stood their ground.

It was scarcely to be wondered at that nerves should somewhat give way in such a place and at such an hour, for none but ghosts would ever dream of perambulating that awful region.

The form came nearer, and then it was perceived

'ever and anon,' as the moon peeped fitfully between the driving clouds, that the figure, ghost, or demon was habited in human clothes, and was wearing a smart gray overcoat and a white hat. It was this gray and white attire that in the distance gave the figure its ghastly and ghostly appearance as it came along between the grassy mounds, looked at the head-board where the initials were rudely carved, stood for a moment as if in solemn contemplation, tapped it lightly with his walking-stick, and then passed along to the next and the next, coming ever nearer and nearer.

As he came on, evidently intending to make his exit by the gate where the watchers stood, all at once flashed upon them the truth that no one could have ever guessed. 'By ——,' they murmured, 'it's Hawkins!'

A thousand thoughts flashed through them as to the why and wherefore 'of his presence in that ghostly place at that ghostly hour.' They never wondered why *they* were there, but why Sir Henry Hawkins was. It would never do to be seen by him—at least, so they thought—so they quietly got round one of the ivy-covered buttresses till he had passed, and from their hiding-place watched him down the steps and along the lawn to the lodge, where the porter let him out.]

CHAPTER LXXII

HOW I CROSS-EXAMINED PRINCE LOUIS NAPOLEON

I HAVE been often questioned in an indirect manner as to the amount of my income and the number of my briefs. I do not mean by the Income Tax Commissioners, but by private 'authorities.' I was often *told* how much I must be making. Sometimes it was said, 'Oh, the Associates' Office verdict books show this and that.' 'Why, Hawkins, you must be making thirty thousand a year if you are making a penny. What a hard-working man you are! How *do* you manage to get through it?'

Well, I had no answer. It is a curious inquisitiveness which it would do no one any good to gratify. I did not think it necessary to the happiness of my friends that they should know, and if it would afford *me* any satisfaction it was far better that they should name the amount than I. They could exaggerate it; I had no wish to do so. It is true enough in common language I worked hard, but working by system made it easy. Slovenly work is always hard work; you never get through it satisfactorily. It was by working easily that I got through so much. 'Never fret' and 'toujours prêt,' as I told the

chaplain; these sound 'mottoes,' as he called them, I hope he possesses to this day. If they would not help him to a bishopric nothing would. But I will say most seriously that nothing is so great a help in our daily struggles as *good temper*, and with that observation I leave my friends still to wonder how I got through so much.

Judges often talk over their experiences at the Bar. Sometimes I talked of mine, and on one occasion told of the following curious incident in my long career.

I mention this circumstance as a curiosity only so far as the incident is concerned, but as more than a curiosity so far as the legality of evading the substance of the law by a technicality is concerned.

All men are not privileged to cross-examine royalty, and especially future Emperors.

On July 1, 1847, which was not very long after my call to the Bar, Prince Louis Napoleon, who afterwards became Emperor of the French, was residing in England.

Of course, in looking back upon a man who afterwards became an Emperor the perspective seems to have altered, and he looks greater than his figure actually was. He is, of course, more important in one's eyes, and therefore from this point of view the event seems to be of greater magnitude than the mere police-court business that it was. When a man becomes great, the smallest details of his career increase in value and importance.

The Prince had given a man of the name of Charles Pollard into custody for stealing and ob-

taining by fraud two bills of exchange for £1,000 each.

I was instructed by one Saul (not of Tarsus) to defend, and old Saul thought it would be judicious to cross-examine the Prince into a cocked hat, little dreaming what kind of a cocked hat our opponent would one day wear.

But Saul, not content with this ordinary drum-beating kind of Old Bailey performance, in which there is much more alarm than harm, instructed me to make a few inquiries as to the Prince's private life, and so *show him up* in public. Saul loved that kind of persecution. To him the witness-box was a pillory, notwithstanding there was more mud attaching to the throwers than to the object of their attention.

Young as I was in my profession, I had sense enough to know that to dip into a prosecutor's private history, and the history of his father and grandfather, and a succession of grandmothers and aunts, was hardly the way to show that the prisoner had not stolen that gentleman's property, but was a good way to prevent the Prince from recommending him to mercy.

I therefore, in my simplicity, asked old Saul what the uncle of the Prince and his voyage in the *Bellerophon*, etc., had to do with this man's stealing these two bills of exchange.

'Never mind, Mr. Hawkins, you do it; it has a great deal to do with it.'

However, I made up my own mind as to the course I should pursue, and having carefully read my 'instructions,' found that the man had been unjustly

accused by this Napoleon—there never was a man so trampled on—and every word of the whole accusation was false. *So* did some solicitors instruct young counsel in those days.

I started my business of cross-examination, accordingly, with a few tentative questions, testing whether the ice would bear before I took the other foot off dry land. It did not seem to be very strong, I thought. Some of them were a little bewildering, perhaps, but that, I think, was their only fault, which the Prince was desirous of amending, and he graciously appealed to me in a very sensible manner by suggesting that if I would put a question that he *could* answer he would do so.

I thought it a fair offer, even from a Prince, if I could only trust him. I kept my bargain, and definitely shaped my examination so that 'Yes' and 'No' should be all that would be necessary.

We got on very well indeed for some little time, his answers coming with great readiness and truth. He was perfectly straightforward, and so was I.

'Yes, sir,' 'No, sir'; that was all.

As I have said, at this time I had not had much experience in cross-examination, but I had some intuitive knowledge of the art waiting to be developed. Napoleon gave me my first lesson in that department.

'I am afraid, sir,' said His Highness, 'you have been sadly misinstructed in this case.'

'I am afraid, sir, I have,' said I. 'One or the other of us must be wrong, and I am much inclined to think it's my solicitor.'

It was a nice little bull, which the Prince liked apparently, for he laughed good-humouredly, and especially when I found, as I quickly did, that my strength was to sit still, which I also did.

I had learned by this exhibition of forces that there *was* a defence, if I could only keep it up my sleeve. To expose it before the magistrate would simply enable Clarkson, who was opposed to me, to bring up reinforcements, and knock me into a cocked hat instead of Napoleon. Old Saul knew nothing whatever about my intended manœuvre, nor did Clarkson or his solicitor.

I knew the man would be committed for trial; the magistrate had intimated as much. I therefore said nothing, except that I would reserve my defence.

Had I said a word, Clarkson would have shaped his indictment to meet the objection which I intended to make; the man, however, was committed to the Old Bailey in total ignorance of what defence was to be made.

The case was tried before Baron Alderson, as shrewd a Judge, perhaps, as ever adorned the Bench.

When I took my point, he at once saw the difficulty Napoleon was in, a difficulty from which no Napoleon could escape even by a *coup d'état*.

It was, in fact, this—simple as A B C:

When the bills of exchange were received by Pollard, although he intended to defraud, they were *neither drawn nor accepted*, and so were not bills of exchange at all; another process was necessary before they could become so even in appearance, and that was forgery.

Moreover, there was included in this point another objection, namely, that the *stamps* signed by the Prince having been handed to him with the intention that they *should be subsequently filled up*, they were not *valuable securities* (for stealing which the ill-used Pollard was indicted) at the time they were appropriated, and could not therefore be so treated.

In short, the legal truth was that Pollard neither stole nor obtained either *bill of exchange* (for such they were not at that time, nor valuable securities).

Such was the law. I believe Napoleon said the devil must have made it, or worked it into that 'tam shape!'

There were many technicalities in the law of those days, and justice was often defeated by legal quibbles. But the law was so severe in its punishments, as I have shown, that Justice herself often connived at its evasion. At the present day there is a gradual tendency to make punishment more lenient and more certain—to remove the entanglements of the pleader, and render progress towards substantial instead of technical justice more sure and speedy. Napoleon's defeat could not have occurred at the present day—not, at all events, in that 'tam shape.'

In a case in which the member for St. Ives was petitioned against on the ground of treating, before Lush, J., I was opposed by Russell (afterwards Lord Chief Justice and Lord Russell of Killowen). A. L. Smith was my junior, and I need not say he knew almost everything there was to be known about election law. There was, however, no law in the case. No specific act of treating was proved, but we

felt that general treating had taken place in such a wholesale manner that our client was affected by it. So we consented to his losing his seat—that is to say, that the election should be declared *void*—merely void. As the other side did not seem to be aware that this void could be filled by the member who was unseated, they did not ask that our client should not be permitted to put up for the vacancy, although this was the real object of my opponent's petition. He wanted the seat for himself, but knew that he had not the remotest chance against his unseated opponent.

His surprise, therefore, must have been as great as his chagrin when, the very night of the decision which unseated him, he came forward once more as a candidate. The petition had increased his popularity, and he won the seat with the greatest ease, and without any subsequent disturbance by the former petitioner.

I have told you of a curious trial before a Recorder of Saffron Walden, and my memory of that event reminds me of another which took place in that same abode of learning and justice. Joseph Brown, Q.C., and Thomas Chambers, Q.C., were brother Benchers of mine, and when we met at the Parliament Chamber after dinner it was more than likely that many stories would be told, for we often fought our battles over again.

At the time I speak of, Knox was the Recorder of that important borough, and was possessed of all the dignity which so enhances a public officer in the eyes of the public, whether he be the most modest of beadles in beadledom, or the highest Recorder in Christendom. To give himself a greater air of

importance, Knox always carried a *blue umbrella* of a most blazing grandeur. He was looked up to, of course, at Saffron Walden as their greatest man, especially as he occupied the best apartments at the chief brimstone shop in the town. When I say *brimstone*, I mean that it seemed to be its leading article, for there were a great many yellow placards all over and about the emporium, which, perhaps, ought to have been called a 'general shop.'

There were three men up before Knox for stealing malt, a very serious offence indeed in Saffron Walden, where malt was almost regarded as a sacred object—until it got into the beer.

'Tom' Chambers (afterwards Recorder of London) was defending these prisoners, and I have no doubt, from the conduct of Knox, acquired a great deal of that discrimination of character which afterwards so distinguished him in the City of London. The degrees of guilt in these men ought to be noted by all persons who hold, or hope to hold, a judicial position. As to the first man, the actual thief, there could be no doubt about his crime, for he was actually wheeling the two or three shovelfuls of malt in a barrow, so there was not much use in defending him.

About the second man there was not the same degree of certainty, for he had never touched the malt or the barrow, and there was no evidence that he knew the first man had stolen it. The only suspicion—for it was nothing more—against him was that he was seen to be walking *along the highway* near the man who was wheeling the barrow, and, as it was daytime, many others were equally guilty.

The third man was still less implicated, for all that appeared against him was that *at some time or other* he had been seen, either on the day of the theft or just before, to be in a public-house with the thief and asking him to have a drink.

If it had not been at Saffron Walden, where they are so jealous of their malt and such admirers of their maltsters, there would have been no case against anyone but the actual thief; and if the Recorder had known the law as well as he knew Saffron Walden, or half as much as Saffron Walden admired him, he would have ruled to that effect.

However, he pointed out to the jury the cases one by one with great care and no stint of language.

'Against the first,' said he, 'the case is clear enough: he is caught with the stolen goods in his possession. In the second case, *perhaps*, it is not quite so strong, you will think, but it is for *you*, gentlemen, not for *me*, to judge: you will not forget, gentlemen, he was walking along by the side of the actual thief, and it is for you to say what that means.' Then, after clearing his throat for a final effort, he said:

'Now we come to the third man. Where was he? I must say there is a slight difference between his case and that of the other two men, who might be said to have been caught in the very act, but it's for *you*, gentlemen, not for *me*. It is difficult to point out item by item, as it were, the difference between the three cases, but you will say, gentlemen, whether they were not all mixed up in this robbery —it's for *you*, gentlemen, not for *me*.'

The jury were not going to let off three such rogues

as the Recorder plainly thought them, and instantly returned a verdict of guilty against all.

'I agree with the verdict,' said the Recorder. 'It is *a very bad case*, and a mercantile community like Saffron Walden must be protected against such depredators as you. No doubt there are degrees of guilt in your several cases, but I do not think I should be doing my duty to the public if I made any distinction in your sentences: you must all of you undergo a term of five years' penal servitude.'

Whereupon Tom Chambers was furious. Up he jumped and said:

'Really, sir; really——'

'Yes,' said Knox, 'really.'

'Well then, sir, you can't do it,' said the counsel; 'you cannot give penal servitude for petty larceny. Here is the Act' (reading): '"Unless the prisoner has been guilty of any felony before."'

'Very well,' said the Recorder; 'you, Brown, the actual thief, and you, Jones, his accessory in the very act, not having been convicted before, I am sorry to say, cannot be sentenced to more than two years' imprisonment with hard labour, and I reduce the sentence in your cases to that; but as to you, Robinson, yours is a very bad case. The jury have found that you were *mixed up* in this robbery, and I find that you have been convicted of stealing apples. True, it's a good many years ago, but it brings you within the purview of the statute, and therefore your sentence of five years will stand.'

CHAPTER LXXIII

THE NEW LAW ALLOWING THE ACCUSED TO GIVE EVIDENCE —THE CASE OF DR. WALLACE, THE LAST I TRIED ON CIRCUIT

I SHOULD like to make an observation on the recent Act for enabling prisoners to go into the witness-box and subject themselves, after giving their evidence, to cross-examination.

It must be apparent to everyone, learned and unlearned in its mysteries, that no evidence can be of its highest value, and often is of no value, until sifted by cross-examination. I was always opposed to this process as against an accused person, because I know how difficult it is under the most favourable circumstances to avoid the pitfalls which a clever and artistic cross-examiner may dig for the unwary.

It did not occur to me in that early stage of the discussion on the Bill that a really true story *cannot* be shaken in cross-examination, and that only the *false* must give way beneath its searching effect.

I had to learn something in advocacy; indeed, I was always learning, and the best of us may go on for ever learning, as long as this wonderful and mysterious human nature exists.

However, I am not writing philosophical essays, but relating the facts of my simple life, and I confess that the case that came before me on this occasion totally upset my quiet repose in all the comfortable traditions of the past. Human nature had something which I had not seen: it arose in this way: A doctor was accused of a terrible crime against a female patient: I need not give all its details, it is sufficient to say that if the girl's statement was true penal servitude for life was not too much, for he was a villain of the very worst character. Taking the ordinary run of evidence, if I may use the word, and the ordinary mode of cross-examination, which, in the hands of unskilled practitioners, generally tends to corroborate the evidence in chief, the case was overwhelmingly proved, and how sad and painful it was to contemplate none can realize who do not understand anything below the surface of human existence.

I had watched the case with the anxious care that I am conscious should be exercised in all inquiries, and especially criminal inquiries, that come before one. I watched, and, let me say, *especially watched*, for any point in the evidence on which I could put a question in the prisoner's favour.

Upon that subject I never wavered throughout the whole of my career, and the testimony of the letters which I shall give by-and-by from the most distinguished members of the criminal Bar, not to say that they are not equally distinguished in the civil, will, I am sure, bear out my little self-praise upon a small matter of infinite importance.

Everything in this case seemed to be overwhelm

ingly against the unhappy doctor. No one in court, except himself, *could* believe on the evidence but that he was guilty.

I, who through my whole life had been studying evidence and the mode in which it was delivered, believed in the man's guilt, and felt that no cross-examination, however subtle and skilfully conducted, could shake it.

I felt for the man—a scholar, a scientist—as one must feel for the victim of so great a temptation. But I felt also that he was entitled, on account of all those things which aroused my sympathy, to the severest sentence, which I had already considered it would be my duty to award him.

Then, under the new Act, which I had spoken against and written against, as one long associated with all the bearings of evidence given in the witness-box, the poor doctor stepped into that terrible trap for the untruthful.

Let me now say that, even before he was sworn, his *manner* made a great impression on my mind. And on this subject I would like to say that few Judges or advocates sufficiently consider it.

The greatest actor has a manner. The man who is not an actor has a manner, and if you are only sufficiently read in the human character it cannot deceive you, however disguised it may be. A witness's evidence may deceive, but his manner is the looking-glass of his mind, sometimes of his innocence. It was so in this case.

The man was not acting, and he was not an actor. This made the first impression on my mind, and I

knew there *must* be something beneath it which only *he* could explain. I waited patiently. It was much more than life and death to this man.

The next thing that impressed me was that there was not the least confusion in his evidence or in himself. His tone, his language, could only be the result of conscious innocence.

It was not very long before I gathered that he was the victim of a cruel and cowardly conspiracy. It was absolutely a case of *blackmailing, and nothing else.*

I believed every word the man said, and so did the jury. His evidence *acquitted him.* He was saved from an ignominious doom by the new Act, and from that moment I went heart and soul with it; however much it may be a danger to the guilty, it is of the utmost importance to the innocent.

This case was not finished without a little touch of humour. When half-past seven arrived, an hour on circuit which I always considered far too early to adjourn, the jury thought it looked very like an 'all-night sitting,' although I had no such intention, and one of their body or of the Bar, I forget which, raised the question on a motion for the adjournment of the house.

I was asked, I know, by some impatient member of the Bar whether a case in which *he* was engaged could not go over till the morning.

This gave immense encouragement to an independent juryman, who evidently was determined to beard the lion in his den, and possibly shake off 'the dewdrops of his British indignation.'

I never believed in British lions, except on His

Majesty's quarterings, and although they look very formidable in heraldry, I never found them so in fact. Indeed, if the British lion was ever a native of the British Isles, he must have become extinct, for I have never heard so much as an imitation growl from him except in Hyde Park on a Sunday.

The British lion, however, in this case seemed to assert himself in the jury-box, and rising on his hind-legs, said in a husky voice, which appeared to come from some concealed cupboard in his bosom:

'My lord!'

'Yes?' I said in my blandest manner.

'My lord, this 'ere —— is a little bit stiff, my lord, with all respect for your lordship.'

'What is that, sir?'

'Why, my lord, I've been cramped up in this 'ere narrer box for fourteen hours, and the seat's that hard and the back so straight up that now I gets out on it I ain't got a leg to stand on.'

'I'm sorry for the chair,' I said.

He was a very thick-set man, and the whole of the jury burst into a laugh. Then he went on, with tears in his eyes:

'My lord, when I went home last night arter sittin' here so many hours I couldn't sleep a wink.'

I could not help saying:

'Then it is no use going to bed; we may as well finish the business.'

That was all very well for him, but another jury-man arose, amidst roars of laughter, and lifted up a hard, wooden-bottomed chair, and beat it with his heavy walking-stick.

The chair was perfectly indifferent to the treatment it was receiving after supporting the juryman for so many hours without the smallest hope of any other reward, and I then asked :

'Is that to keep order, sir?'

The excitement continued for a long time, but at last it subsided, and I suggested a compromise.

I said probably the gentlemen in the next case would not speak for more than one hour each, and if they would agree to this I would undertake to sum up in *five minutes*.

The husky lion sat down, and so did the musician. The jury acquitted and went home.

These are some of the caprices of a jury which a Judge has sometimes to put up with, and it has often been said that Judges are more tried than prisoners. Perhaps that is so, especially when, if they do not get the kind of rough music I have mentioned from the jury-box, they sometimes receive a by no means complimentary address from the prisoner. One occurs to my mind, with which I will close this chapter.

I had occasion to sentence to death a soldier for a cruel murder by taking the life of his sergeant. It was at Winchester, and after I had uttered the fatal words the culprit turned savagely towards me, and in a loud gruff voice cried 'Curse you!'

I made no remark, and the man was removed to the cells. Very humanely the chaplain went to the prisoner and endeavoured to bring him to a proper state of mind with regard to his impending fate.

On the day appointed for the execution I received

by post a long letter from the clergyman, enclosing another written on prison paper.

The letter was to tell me that for ten days he could make no impression on the condemned man; but on the tenth or twelfth day he expressed his sincere sorrow that he had cursed me for passing on him the sentence he had so well deserved, and his great desire was to make a humble apology to me in person. He was told that that was impossible, as I could not come to him, nor could he go to me. Whereupon he begged to be allowed to write his humble apology to me. This he was permitted to do, and the letter from the culprit, who was hanged that morning, I was reading at the very moment of his execution. It contained, I believe, sincere expressions of contrition for the cruel deed he had done, but was mostly taken up with apologies to me for having cursed me after advising him to prepare for the doom that awaited him. He begged my forgiveness, which, I need not say, I freely gave.

CHAPTER LXXIV

A FAREWELL MEMORY OF JACK

Poor little Jack is dead!

It is a real grief to me. A more intelligent, faithful, and affectionate creature never had existence, and to him I have been indebted for very many of the happiest hours of my life.

Poor dear little Jack! he lived with me for many years, and at last, I believe, some miscreant poisoned him, for he was taken very ill with symptoms of strychnine, and died in a few hours in the early morning of May 24, 1894. I was with him when he died.

I never replaced him, and to this hour (February, 1904) have never ceased to be very sad when I think of the merciless and cruel fate by which the ruffian put an end to his dear little life.

He was buried under some shrubs in Hyde Park, where I hope he sleeps the sleep of good affectionate dogs.

It is nearly ten years ago, and yet there is no abatement of my love for him, hardly any of my sorrow. He always occupied the best seat in the Sheriff's carriage on circuit, and looked as though he felt it was his

right. He slept by my side on a little bed of his own. At Norwich, I think, he made his first appearance in state. The moment he entered the house he appropriated to himself the chair of state, which had been provided by the local upholsterer for the express use of Queen Alexandra, then Princess of Wales, on her first visit to Norwich to confer honour and happiness on Queen Victoria's subjects in the eastern counties.

Nobody, however, molested Jack in his seat, and, I believe, had it been one of the seats for the county there would have been no petition to disturb him. He would have been as faithful a member as the immortal Toby, M.P. for Barkshire, of Mr. Punch, to whom ever my best regards. Jack considered himself entitled to precedence wherever he went, and maintained it. He was a famous judge of upholstery, and the softest chair or sofa, hearthrug or divan, was instantly appropriated. This sometimes made the local dignitaries sit up a little. They might be accustomed to the dignity of one of Her Majesty's Judges, but the impudence of Her Majesty's 'Jack' —for so he deemed himself on circuit—was a little beyond their aldermanic natures.

Notwithstanding their supposed respect for us, the local authorities did not mind putting us into lodgings which a commercial traveller, who paid 1s. 6d. a night for his bed in the old days when I was a boy, would certainly have turned up his nose at—and enough to make him!

I did not fail to make my grievances on these occasions known to those whose duty it was to pro-

vide decent accommodation for us when we came to perform the judicial work of the county. I used to tell them a Polar bear or an Arctic fox would have wanted an extra great-coat in such apartments. But generally it was of no avail. There needs, however, no further allusion to these matters after the incident of the sheepskins.

I was much, and agreeably, surprised to find that the Press everywhere sympathized with my loss of Jack, and many an extract I made containing their very kind remarks. My room might have been one of Romeike's cutting-rooms. Here is one I will give as a sample. I am sorry I cannot positively state the name of the journal, but I am almost sure it is from the *Daily Telegraph:*

'An item of judicial intelligence, which may not everywhere be duly appreciated, is the death of Mr. Justice Hawkins' fox-terrier Jack. Jack has been his lordship's most constant friend for many years. With some masters such a useful dog as he was would have found going on circuit a bore; but with Sir Henry Hawkins, who knows what kind of life suits a dog, and likes to see that he enjoys it, going on circuit was a career of adventure. The Judge was always out betimes to give Jack a long morning walk, and when his duties took him to small county towns he often rose with the farmers for no other purpose.'

Here is another paragraph, and I should like to be able to give the writer's name, for it is very pleasant at all times to find expressions of true love for animals, whose devotion and faithfulness to man endear them to us:

'Sir Henry Hawkins has my sincere sympathy in his great bereavement. Jack, the famous fox-terrier who accompanied his master everywhere, is dead. Innumerable are the things told of Jack's devotion to Sir Henry, and of Sir Henry's devotion to Jack. I first made their acquaintance at Worcester Railway-station some years ago, when I saw Jack marching solemnly in the procession of officials who had come with wands and staves and javelins to receive Sir Henry Hawkins at the opening of the Assizes. Jack was on one or two special occasions, I believe, accommodated with a seat on the Bench; and at Maidstone, when the lodgings caught fire, Sir Henry rushed back at the risk of his life to save his faithful little dog.'

These are small memories, perhaps, but to me more dear than the praises too often unworthily bestowed on actions unworthy to be recorded.

But here I pause. Jack rests in his little grave in Hyde Park, and I sometimes go and look on the spot where he lies. Many and many an affectionate letter was written to me bewailing the loss of our little friend.

Only one of these I shall particularly mention, because it shows how immeasurably superior was Jack to the lady who wrote it in that true and sincere feeling which we call friendship, and which, to my mind, is the bond of society and the only security for its well-being. She was a lady who belonged to what is called 'society,' the characteristic of which is that it exists not only independently of friendship, but in spite of it.

After condoling with me on my loss and showing her sweet womanly sympathy, she concluded her letter by informing me that she had one of the

sweetest pets eyes ever beheld, a 'darling devoted to her with a faithfulness which would really be a lesson to "our species,"' and that, in the circumstances, she would let me have her little darling for *five pounds.* I was so astonished and so angry at the meanness of this 'lady of fashion' that I said—— Well, perhaps, my exact expression had better be buried in oblivion.

[The following memorial note by Lord Brampton was communicated to the *Weekly Dispatch.* I insert it by the kind permission of the proprietors of that journal :]

'I hadn't seen Professor Atkinson for two or three years in consequence of my own illness, but I esteemed him very much. I thought him clever in his profession, and very kind to all those who came under his care.

'I know he took a great interest in the Animals' Institute. I hadn't been a member of the Animals' Institute for several years, and therefore I knew very little of it in recent times. As to Jack, my own dog, he was very fond of him. He had a portrait of him in his consulting-room over the door.

'I know from some friends of mine that he was considered a most careful and successful rubber; he was very skilful, and and effected, I know, some good cures.

'I forget almost how I became acquainted with him—professionally, I think it was—his own profession, I mean. I should be very sorry to say he had ever been under me. Jack was very ill when he was under Professor Atkinson's care, and I constantly went to see him. In conclusion, I may say that I regarded him as a clever and genuinely kind-hearted gentleman, very fond of animals and proud of his own profession.

'BRAMPTON.'

[The following letter, which appeared in the same journal, was written by Lord Brampton to Professor Atkinson a little over eight years ago, and will be found of interest :]

5, Tilney Street,
Park Lane,
November 19, 1895.

My dear Professor Atkinson,

I do not know that I can tell you more about my dear little Jack than you are already acquainted with. He was given to me as a very choice specimen of his breed of smooth-haired fox-terriers by my very dear friend the late Lord Falmouth. As a mere puppy he very speedily won the affection of all those who had care of him, and became my constant companion, living with me, sleeping in my room, and travelling everywhere with me. He understood, I believe, all I said to him as though I spoke his own language, which not being accomplished enough to converse in, I, nevertheless, thoroughly understood.

His intelligence, fidelity, gratitude, and truthfulness, coupled with an amiable and affectionate nature, never failed him. Many a weary hour has he cheered me more than I can tell you.

You and Mr. Bush, to whose unremitting care and attention he owed his restoration to health after a severe illness in 1892, could testify to all those rare and invaluable good qualities. But, alas! in May, 1894, one evening he was seized with sudden and severe sickness from which he could not rally, and in my presence, with one intelligent look of recognition, he breathed his last to our great sorrow, for we had lost a real friend.

Believe me,
Very truly yours,
(Signed) H. Hawkins.

BALLAD OF THE UNSURPRISED JUDGE, 1895.*

('Mr. Justice Hawkins observed, "I am surprised at nothing."'—*Pitts* v. *Joseph*, '*Times*' *Report*, *March* 27.)

All hail to Sir Henry, whom nothing surprises!
Ye Judges and suitors, regard him with awe,
As he sits up aloft on the Bench and applies his
Swift mind to the shifts and the tricks of the law.

* It was a well-known expression of Sir Henry Hawkins when on the Bench, 'I should be surprised at nothing'; and after the long and strange experiences which these reminis-

Many years has he lived, and has always seen clear things
That Nox seemed to hide from our average eyes;
But still, though encompassed with all sorts of queer things,
He never, no, never, gives way to surprise.

When a rogue, for example, a company-monger,
Grows fat on the gain of the shares he has sold,
While the public gets lean, winning nothing but hunger
And a few scraps of scrip for its masses of gold;
When the fat man goes further and takes to religion,
A rascal in hymn-books and Bibles disguised,
'It's a case,' says Sir Henry, 'of rook *versus* pigeon,
And the pigeon gets left—well, I'm hardly surprised.'

There's a Heath at Newmarket, and horses that run there;
There are owners and jockeys, and sharpers and flats;
There are some who do nicely, and some who are done there;
There are loud men with pencils and satchels and hats.
But the stewards see nothing of betting or money,
As they stand in the blinkers for stewards devised;
Their blindness may strike Henry Hawkins as funny,
But he only smiles softly, he isn't surprised.

So, here's to Sir Henry, the terror of tricksters,
Of law he's a master, and likewise a limb:
His mind never once, when its purpose is fixed, errs;
For cuteness there's none holds a candle to him.
Let them try to deceive him, why, bless you, he's *been* there,
And can track his way straight through a tangle of lies;
And, though some might grow gray at the things he has seen there,
He never, no, never, gives way to surprise.

By the courtesy of Sir Francis Burnand, who most kindly obtained permission from Messrs. Bradbury and

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cences indicate, the literal truth of the observation is not to be doubted. 'This clever ballad, which was written in 1895, seems sufficiently appropriate to find a place in these memoirs, and I wish I knew the name of the writer that my thanks and apologies might be conveyed to him for this appropriation of them.—R. H.

Agnew, I insert the following poem, which appeared in a February number of *Punch* in the year 1887:

THE WOMAN AND THE LAW!

(A true story, told before Mr. Justice Hawkins at the recent Liverpool Assizes—*vide Daily Telegraph*, February 8.)

In the criminal dock stood a woman alone,
To be judged for her crime, her one fault to repair,
And the man who gave evidence sat like a stone,
With a look of contempt for the woman's despair!
For the man was a husband, who'd ruined a life,
And broken a heart he had found without flaw;
He demanded the punishment due from the wife,
Who was only a Woman, whilst his was the Law!

A terrible silence then reigned in the Court,
And the eyes of humanity turned to the dock;
Her head was bent down, and her sobbing came short,
And the gaoler stood ready, with hand on the lock
Of the gate of despair, that would open no more
When this wreckage of beauty was hurried away!
'Let me speak,' moaned the woman, 'my lord, I implore!'
'Yes, speak,' said the Judge. 'I will hear what you say!'

'I was only a girl when he stole me away
From the home and the mother who loved me too well;
But the shame and the pain I have borne since that day
Not a pitying soul who now listens can tell!
There was never a promise he made but he broke;
The bruises he gave I have covered with shame;
Not a tear, not a prayer, but he scorn'd as a joke!
He cursed at my children, and sneered at my fame!

'The money I'd slav'd for and hoarded he'd rob;
I have borne his reproaches when maddened with drink.
For a man there is pleasure, for woman a sob;
It is he who may slander, but she who must think!
But at last came the day when the Law gave release,
Just a moment of respite from merciless fate,
For they took him to prison, and purchased me peace,
Till I welcomed him home like a wife—at the gate!

'Was it wrong in repentance of Man to believe?
It is hard to forget, it is right to forgive!
But he struck me again, and he left me to grieve
For the love I had lost, for the life I must live!
So I silently stole from the depths of despair,
And slunk from dark destiny's chastening rod,
And I crept to the light, and the life, and the air,
From the town of the man to the country of God!

'Twas in solitude, then, that there came to my soul
The halo of comfort that sympathy casts;
He was strong, he was brave, and, though centuries roll,
I shall love that one man whilst eternity lasts!
Oh, my lord, I was weak, I was wrong, I was poor!
I had suffered so much through my journey of life.
Hear! the worst of the crime that is laid at my door:
I said I was widow when really a wife!

'Here I stand to be judg'd, in the sight of the man
Who from purity took a frail woman away.
Let him look in my face, if he dare, if he can!
Let him stand up on oath to deny what I say!
'Tis a story that many a wife can repeat,
From the day that the old curse of Eden began;
In the dread name of Justice, look down from your seat!
Come, sentence the Woman, and shelter the Man!'

A silence more terrible reigned than before,
For the lip of the coward was cruelly curled;
But the hand of the gaoler slipped down from the door
Made to shut this sad wanderer out from the world!
Said the Judge, 'My poor woman, now listen to me:
Not one hour you shall stray from humanity's heart!
When thirty swift minutes have sped, you are free!
In the name of the Law, which is Mercy, depart!']

CHAPTER LXXV

OLD TURF FRIENDS

An announcement in the morning papers of the death of Mr. Richard C. Naylor, of Kelmarsh, Northamptonshire, at the age of eighty-six, carried me back to the far-off days when, tempted by the hospitality and kind friendship of Lord Falmouth, I became a regular visitor of Newmarket Heath—an habitué, during the splendid dictatorship of Admiral Rous!

I would like to mention the names of some of the celebrities of the Turf of those days, many of them my frequent companions, and no less my real and sincere friends. Time, however, fails. But in looking through the piles of letters with which the kindness of my friends has favoured me from time to time I come across many a relic of the past that recalls the pleasantest associations. Even a telegram, most prosaic of correspondence, which I meet with at this moment, is a little poem in its way, and brings backs scenes and circumstances over which memory loves to linger.

It is nothing in itself, but let anyone who has loved country life and enjoyed its sports and its many friendships, consider what forgotten pleasures may be brought to mind by this telegram.

Telegram.

DORCHESTER,
November 2, '97.

Handed in at QUORN at 9.10 a.m.

Received here at 11.1 a.m.

To SIR H. HAWKINS, The Judges' House, Dorchester.

Just returned from Badminton to find the most charming present from you, which I shall always regard with the greatest value, and think you are too kind in giving me such a present. Am writing. —LONSDALE.

'At *Quorn*,' I repeat, and then I find the letter which Lord Lonsdale was writing. This is it:

CHURCHILL COTTAGE,
QUORN,
LOUGHBOROUGH,
Tuesday, November 2, '97.

MY DEAR SIR HENRY,

How can I thank you enough for your magnificent present? It is, indeed, kind of you thinking of me, and I can assure you that the spurs shall remain an 'heirloom' to decorate the dinner-table (a novel ornament), and match the silver spur poor old White Melville gave me. Why you should have so honoured me I do not know, but that I fully value your kindly thought I do know.

Is there any chance of your being in these parts? If so, *do* pay me a visit.

And with many, many thanks for your extreme kindness,

Believe me,
Yours very truly,
(*Signed*) LONSDALE.

Alas! they are all—I think all—of them dead, yet they will live while the memory of the generation lasts

which called them friends. They have vanished from the scenes in which they played so prominent a part, and yet their influence remains.

There was the old Admiral himself, the king of sportsmen and good fellows. Horse or man-o'-war, it was all one to him; and although sport may not be regarded as of the same importance with politics, who knows which has the more beneficial influence on mankind? I would have backed Admiral Rous to save us from war, and if we drifted into it to save us from the enemy against any man in the world. Then there was his bosom friend Tom Payne, and the old, old Squire George Osbaldeston, Lord Falmouth, Crawford, the Earl of Wilton, Lord Bradford, Lord Rosslyn, Lord Vivian, the Duke of Hamilton, George Brace, General Markwood, Alexander, Lord Westmorland, the Earl of Aylesbury, Clare Vynn, Dudley Milner, 'The Mute,' Sir John Astley, Lords Suffolk and Berkshire, Coventry and Clonmell, Manton, Kerr Laymen—'Cling,' as we used to call him; then, alas! a long, long while after, Henry Calcraft, Lord Granville, Lord Portsmouth and 'Prince Eddy,' Paul Gerrard, the Earl of Hardwicke, Viscount Royston, Sam Batchelor, and Tyrwhitt Wilson.

These are some of those whom I remember, and, by the way, I ought to add the Duke of Westminster and Tom Jennings, names interesting and distinguished, and indicative of a phase of life ever full of enjoyment such as is not known out of the sporting world, where excitement lends to pleasure the effervescence and sparkle which make life something more than animal existence.

This is true in hunting, racing, cricket, and I should think intensified in the highest degree in a charge of

cavalry. Take Balaclava, for instance: the very fact of staking life at such odds must have compressed into that moment a whole life of ordinary pleasure.

I will mention a few more names, and then close another chapter of my memory. There was Mr. J. A. Craven, the Duke of St. Albans, the Duke of Beaufort, Montagu Thorpe, Major Egerton, Coventry, General Pearson, Lord Calthorpe, Henry Saville, Douglas Gordon (Mr. Briggs), Oliver Montagu, Henry Leeson, the Earl of Milltown, Sir Henry Devereux, Johnny Shafto, Douglas Phillips, Randolph Churchill, Lord Exeter, Lord Stamford.

Of the famous jockeys and trainers there were John Scott, Mat Dawson, Fred Archer. There were also James Weatherby, Judge Clark, and Tattersall.

CHAPTER LXXVI

BREACH OF PROMISE

I NEVER was hostile to actions for breaches of promise of marriage like Lord Herschell, for I could not conceive why a breach of this contract should be treated more lightly than any other, especially as there are usually more serious consequences in issue than in any contract of a commercial character, whatever the amount may be; for here too often is staked the happiness of a life—no small thing to be placed in the scale against an action, say, for indemnity against fire or the recovery of a tradesman's bill.

I will give an instance of a breach of promise that came before me in April, 1895.

It was singular in its defence, and showed, to my mind at all events, that a woman who suffers a grievous wrong of this sort should have the right to claim damages as she would for the non-fulfilment of any other lawful contract. There was a powerful array of counsel on both sides, so that the interests of the contracting parties were championed in a manner worthy of the cause, which was this:

The defendant, a medical man, had promised to

marry the plaintiff, and, having broken this promise, the question was—should he make compensation to the lady for whom he had avowed so much eternal affection ?

The real defence of this case was that the doctor broke off the engagement on the ground that the plaintiff, a young lady, had been guilty of fraud towards the defendant, the juvenile doctor of medicine. He said he broke off the engagement partly on account of the plaintiff herself.

'Do you suggest,' asked Mr. C. Dickens, 'that the plaintiff had been guilty of fraud towards you ?'

'Oh yes,' said the defendant, with the same want of feeling that he would have exhibited if he had been cutting off the plaintiff's leg.

He considered that the girl was an honest girl notwithstanding her fraud, which was a difficult proposition in fact, if not in law. He did not inform his friends that he had been deceived, but only that he had been met by deception—a nice medical difference, no doubt.

He was then asked by the distinguished son of the author of 'Bardell *v.* Pickwick' if he thought he would be injured by the difference between the social position of the plaintiff and himself. He did not, he positively swore, which was rather hard swearing, seeing that her social position was that of a butcher's daughter. *She* would be the only person who would be at a disadvantage in that matter. Nevertheless, the fact of his marrying a butcher's daughter would undoubtedly be a disadvantage.

Then he admitted that there was a social difference

in status between butchers and costumiers—much to the advantage of the latter. There was much laughter at this revelation.

Then the elegant doctor, who was in every respect a gentleman according to latter-day notions, said that when she answered in a hesitating manner about the cause of her mother's death, he suspected she was lying, and felt bound to tell her that he suspected she had a *consumptive taint.* His sole reason for breaking off the engagement was, not that he had a preference for the costumier's daughter, but that there was a mention of *phthisis* in the death certificate of the mother.

And so the matter of breach of contract turned on medical opinion of the cause of the mother's death.

I asked when he believed the lady to be guilty of fraud. He answered, *two months after he broke off the engagement.*

This was because a Miss Prentice told him.

He made no independent inquiries beyond writing to a doctor, whose letter satisfied him, although he did not believe its contents. There were no signs of consumption in the plaintiff, and he had (like a true lover) watched her narrowly.

I summed up after the eloquent speeches. The statement for the defence, I said, was that the promise was obtained by the express representation of the lady that her mother had not died of consumption, whereas the plaintiff well knew that she had. The mother died when the girl was eleven years old, and a doctor who attended her said that

until the end she was a healthy woman, and that he did not think there was any consumptive taint in the family, although the cause of death was *phthisis*. Do you think the girl of eleven was a better judge than the doctor?

The plaintiff's case was that the real hereditary taint in the family which the defendant objected to was not consumption, but that she came from a butcher's family.

In twelve minutes the jury found a verdict of £1,000 for the plaintiff.

I did not grant a stay of execution, but ordered, on the contrary, a payment into court of £60—which the defendant said was quite enough for the breach of contract, if there was one—to be paid out to the young lady.

CHAPTER LXXVII

LEAVING THE BENCH

At length the time came when I was to bid good-bye to the Queen's Bench and the Court No. 5 in which I had so long presided, where I had met and made so many friends, all more or less learned in the law. I had been a Judge since the year 1876, and Time, in its never-ceasing progress, had whispered to me more than once, 'Tarry not too long upon the scene of your old labours, where your presence has made you a familiar object to all the members of every branch of your great and responsible profession ; and while health and vigour and intelligence still, by God's blessing, remain to you, apparently unimpaired by lapse of years, take some of that rest and repose which you have earned, ere it be too late.'

Thereupon, without any needless ceremony of leave-taking, at the close of the year 1898 I took my leave of the Bench with a simple bow. Silently, but with real affection for all I was leaving behind me, I quitted my occupation on the Bench. I considered this to be a far more dignified way of making my exit than meeting face to face the whole of the court and its practitioners and officers, and leaving it to the

eloquent and friendly speech of the Attorney-General to flatter me far beyond my deserts in the customary farewell address which he would have offered to me. I thought it better to rely upon the expressions and conduct of those who knew me well, and to feel that they appreciated the discharge of the many arduous duties which I had been called on to perform. As some evidence of this, I would point to the good wishes from all kinds and classes of people which have followed me into private life, and the numerous letters which every post brought me, and which would fill a volume in themselves. It is, of course, impossible to give many of them to the reader, but I have thought it right to present some of them in an Appendix.

But the crowning honour was graciously conferred upon me by her late Majesty Queen Victoria on January 1, 1899, through the then Marquis of Salisbury, who signified that Her Majesty intended to raise me to the peerage. His lordship's letter announcing the gracious act is inserted, amongst others, at the end of these reminiscences, and I need not say that it will, while life lasts, be my greatest pride. I was subsequently sworn of Her Majesty's Privy Council, and for more than two years attended pretty regularly in the Final Court of Appeal.

It does not behove me to say more on this subject than that the acknowledgment of my long services by the Sovereign must ever be my greatest pride and satisfaction.

Since the commencement of these volumes many of the old friends mentioned in them with affectionate

remembrance have gone to their rest, and I am steadily approaching my own end. Trusting to the mercy and goodness of God, I patiently await my own summons. I can but humbly add that to the best of my poor ability I have ever conscientiously endeavoured in all things to do my duty.

CHAPTER LXXVIII

LORD BRAMPTON

On the 7th of February, 1899, I was introduced to the House of Peers, and took my seat.

I chose for my name and designation the title of Baron Brampton, which Her Majesty was pleased to approve. My little property, therefore, which I mentioned earlier in my reminiscences, conferred on me what was more valuable than its income—the title by which I am now known.

Speaking with reference to those long years ago when I was dissuaded from my career by those who doubtless had the most affectionate interest in my welfare, and to whose advice I proved to be so undutiful, I cannot help, whether vanity be attributed to me or not, contrasting the position of the penniless articled clerk in the attorney's office and the situation which came to me as the result of unremitting labour.

Let me state it with pride as well as humility that my rewards have been beyond my dreams and far above my deserts.

On the 7th of February, in a committee-room of the House, I was met by my supporters and those

READY-MADE COATS(-OF-ARMS); OR, GIVING 'EM FITS!

HENRY, 1ST BARON HAWKINS OF TRYHAM FAIRLEIGH AND SENTENSHAM:

Arms: Quarterly: 1st, In a paddock vert, under a chapeau-de-soie jauntily poised with a rake chirpy, a seasoned sportsman of bonhomie endossed turfy to the last (*Motto:* 'Frustum rectissimum!'—'A little bit of *all* right!'); 2nd, An historic claimant adipose ortonée, brazen and effrontée in perjury, punctured, pilloried and exposed proper by counsel; 3rd, Under a judicial bench cosy but ennuyée and chafy in the dark, a fox-terrier proper of renown (since deceased) constant in fidelity (*Suggested Epitaph:* 'Nox et foxterea nihil'); 4th, Under a sword of justice suspended in imminence by a hair proper, a sinister scoundrel of criminality, chained cringeant and paly, appraised proper from the first, justly doomed and handed over damnée in charge to the jury. *Crest:* Out of a wreath of laurels vert, a veteran hawk-eyed eagle of the law, robed sanguine and wigged proper poudrée in horse-hair, collared, furred, and laced, reguardant in pince-nez (*Motto:* 'Aquila non capit muscas!'—'Flies don't settle on *him!*') *Supporters:* Dexter, a typical counsel of the common-law bar guttée de larmes, robed silk, fairly prostrate in bereavement, and wielding with laudable vigour an heraldic mouchoir; Sinister, an old bailey, gorged proper with causes célèbres lurid and transpontine to the full, collared freely in advance for preference.

whose duties made them a portion of the ceremony, and realized the ambition that came to me only in my later life.

Some members of my family would have preferred the family name to be associated with the title. I must confess I had some attachment for it, as it had rendered me such good service, and it was somewhat hard to give it up.

If, however, I had had any hesitation, it would have been removed when one afternoon Lord —— called on me, and in his chaffing manner, said:

'Well, I hear you are to be Lord '*Awkins* of '*Itchin*, 'Erts.'

'Be —— if I will,' said I; 'Brampton's the only landed estate I have inherited, and although the old ladies who were life-tenants cruelly kept me out of it as long as they could, I shall take my title from it as the only thing I am likely to get out of it.'

'Bravo!' said he; 'I don't like 'Awkins of 'Itchin, 'Erts—sounds low! *Brampton* sounds like a title; and so my hearty congratulations, and may you and her ladyship long live to enjoy it!'

'Mr. Punch' was good enough to furnish me with a beautiful and humorous coat of arms, done by that very talented artist Mr. E. T. Reed, to whom, as well as to my friend Sir Francis Burnand and to Messrs. Bradbury and Agnew, I owe my best thanks for their kindness in allowing it a place in these pages.

I desire to say but little of my work in the House of Lords, but I did take part while my health enabled me to do so in its judicial work. That I felt to me my duty, as it certainly was my pride.

I took part, however, in the decision of 'Allen and Flood,' which had occupied the courts for three years. It was an intricate question, which in this place would be of no interest to the general reader, and is mentioned only as an incident in my later life. And I need not say that, attending as regularly as I could, there were other cases interesting only to lawyers, and they need not be told that their curiosity can be gratified by looking up the House of Lords reports. To me they are of interest no longer.

And now, as I lay down my pen, dreamily thinking over old names, old friends, and old faces of bygone years, I live my life over again. Everything passes like a picturesque vision before my eyes. I can see the old coach which brought me from my home—a distance of thirty miles in eight hours—a rapid journey in those days. This was old Kirshaw's swift procedure. Then there was the 'Bedford Times' I travelled with, which was Whithead's fire-engine kind of traveller; but generally in that district John Crowe was the celebrated whip.

Then passes before me the old Cock that crew over the doorway in Fleet Street, a Johnsonian tavern of mighty lineage and celebrity for chops and steaks. And I see the old waiter, with his huge pockets behind, in which he deposited the tons of copper tips from the numberless diners whom he attended to, when they went out.

Then I observe the Rainbow, by no means such a celebrity, although more brilliant than the Mitre by its side; and in the Mitre I see (but only in imagination) Johnson and Goldsmith talking over the

quaint philosophy of wine and letters till three o'clock in the morning, finishing their three or four bottles of port, and wondering why they were a little seedy the next day.

And there sits at my side, enjoying his chop, Tom Firr, described as the king of huntsmen—a true and honest sportsman, simple, respectful, and respected, whose name I will not omit from my list of celebrities, for he is as worthy of a place in my reminiscences as any M.F.H. you could meet.

CHAPTER LXXIX

TWO LETTERS

[LORD BRAMPTON was always interested in his old friendships, and loved many of the letters of his earlier days. Amongst them were the following, which will probably justify their appearance in these memoirs:

'MY DEAR OLD PAL,

'Your last letter upset me, as it seemed to have been written in a tone of regret tainted with despair. You speak of your old friends disappearing, and life being made somewhat lonely in consequence.

'I am a great lover of photos of men I have known, loved, or respected. I send you a photo taken forty years ago by the man who wrote on medical jurisprudence. It recalls to my mind, and I am sure it will to yours, the face of a noble *man* in every sense of the word—a scholar, an excellent lawyer, and possessing the highest nobility of nature. Many and many a time have we chatted together about you, and the marvellous manner in which you got through your terribly heavy work. He said that no man in his time worked so hard or held so many briefs. Remember, he lived in the days of Scarlett, Brougham, Campbell, Follett, etc.

'I had the faded photo seen to by an excellent photographer and sent copies to many members of his family, and ALL are delighted with it. (It is very good.)

'H.'s last son and myself are the sole remaining links in a long chain of men who worked and lived together.

My brothers Joseph, Henry, William, and John are all gone, Stephen remaining; alas! a confirmed invalid.

'Hang the picture in your library, look into the features of the man, and then write and tell me how truly charmed you are with it, and how it revives a recollection of the days when we were in our zenith, and *you* had ascended *many* rungs of the ladder of success.

'I hope Lady Brampton is very well, and that you are feeling yourself again, and fit to demolish, with your dear wife, a turkey and ham on Xmas Day, and drink a magnum of 1893 champagne. I am terribly upset at the loss of your photo. I made arrangements to have it much enlarged in head and shoulders, and to get one of Lady Brampton's and more of *our old mutual* friends. I must send to the post, so may God bless my dear old chum, and spare you many years.

'Kitty wishes me to send her love to you both; at all times, like me,

'Your truly affectionate old pal,

'CHARLEY COLEMAN.'

There is another letter from Mr. Coleman, which will not only show the kind feeling entertained for Sir Henry by the Bar, but afford an agreeable lesson to thousands in the conduct of their profession. It may stand as a model composition, as an appropriate mode of address by the junior Bar when applying to a Judge for a revising barristership, or to the Lord Chancellor for a County Court judgeship.

Most Judges die to public memory. Lord Brampton is more alive than ever in public appreciation if this letter is any evidence of his longevity.

'*November* 24, 1903.

'MY DEAR OLD PAL,

'I have been seedy and rather overworked, but I do not growl. On me "the shades of night are falling fast," and I must meet them with a smile and not by a frown.

'Your writing, in your last letter to me, greatly *pleased* me. On comparison of letters of old, I arrived at the conclusion that you must be stronger and in better health than you have been for some time. Your signature is a grand exhibition of *penmanship*. The "*Brampton*" of to-day shows all the strength in mind and body of "H. H." of old.

'How is it that the Judges of the present day let the work of their respective courts get into arrear?

'There are too many K.C.'s. You remember the old song:

> '"A song, I'm about to begin it;
> There's something serious in it,
> For it's all about the law:
> L A W—law,
> J A W—jaw."

And *jaw* is the article that solicitors purchase in the Temple and exhibit in the Courts of Justice.

'I remember someone said to the dear old Chief Baron Pollock one day:

'"*How the deuce is it, Chief Baron*, that you get rid of so many cases in so short a time?"

'"Because," he replied, "I have counsel in my court who value time, and only fight at length *real fighting* cases. Neither Edwin James nor Hawkins wastes time. Their speeches are really regulated by the importance of the cases they are engaged in, and they do not treat every common jury as a case of importance."

'A Mr. K. and a Mr. M. H. are both long-winded, *and more than cheeky*.

'Jelf has declared in court that neither in town nor on circuit will he sit later than five o'clock. Many of the Judges seem nowadays to be in weak health.

'Ah well, old pal, you, my father always declared, held more briefs than any man that ever practised at the Bar. The great Scarlett was a long way behind you in point of practice.

'A man making £300 a year expects now to get a silk gown when he applies for one.

'You will remember Bobby Lowe's attempt to tax matches; about this time ten men were made Q.C.'s. Bobby went to the chief clerk in the Lords and asked him what he would get as Chancellor of the Exchequer from them.

'"I think," he replied, "about fifty guineas from each of them."*

'Bobby walked away. Presently he returned, and asked the clerk if he knew the number of barristers there were. The clerk took up a law list, and laughingly said:

'"I have never counted them, but looking at the law list, I should say about ten thousand."

'"Ten thousand!" shouted Bobby; "then why the devil doesn't the Lord Chancellor make them all Q.C.'s?"

'The clerk had a hearty laugh, and answered:

'"What a pull the Chancellor of the Exchequer would get!"

'This story was told to me by the clerk himself, a good fellow, and a big swell in his way.

'I hope you keep yourself going with the most suitable and nourishing grub and TOKAY. I am all gout and rheumatism, and am thereby to be content with the mildest of food and the weakest of drink.

'You were talking of old friends almost at the vanishing-point; I hope next week to send you a photo of a Judge in whose estimation you occupied a high place. I will tell you all about it when I forward it.

'Your photo is mislaid. I am greatly annoyed about it. It was a photo of you when we were *comparatively boys*. It was your *head* I wanted†—photoed; a *head*, my old dad always said, that made *failure* an impossibility.

* The Crown Office fees payable on being appointed King's Counsel are considerably more than this.—R. H.

† An expression which might have become the lips of the Tudor Kings and Queens.—R. H.

'I hope Lady Brampton is now strong again, and fit to fight against the coming winter.

'Kitty desires me to send her love to each of you.

'It is a curious fact that, whenever Kitty is top sawyer, then in the most prominent place is Lady Brampton's photograph; it seems to fascinate her. It is years since she had it, and I hope that Lady Brampton will, if she possesses a spare one, send her a more recent photograph.

'*You* I nobbled and framed with little Jemmy and poor Johnny Holker.

'May God bless you, and bestow health and happiness on you is the heartfelt desire, my dear chum, of

'Your sincere and truly affectionate old pal,

(Signed) 'CHARLEY COLEMAN.

'THE RIGHT HON. THE LORD BRAMPTON.']

CHAPTER LXXX

BAIL AND GRAND JURIES

DURING the time when I occupied a seat on the Bench I was very much concerned with what I felt to be great injustice on an accused person by the magistrates who committed him or her for trial without accepting bail.

How many innocent persons have been sent to the dingy solitude of a cell to await their trial who should have been allowed the liberty to pursue their avocations, persons who could not be tried without the finding of a true bill by the grand jury! They may have been kept for months under lock and key, deprived of the means of supporting their families, and all the while absolutely innocent of the offence with which they were charged.

The magistrates dreaded their own responsibility and made it greater; they feared to do justice, and were content with doing injustice, locking up an innocent man without allowing him the opportunity of finding bail because there was the possibility of his being guilty.

But apart from the injustice inflicted on the prisoner, there is the injury inflicted on society.

Innocent ratepayers are made to pay for an innocent man's incarceration. A wasteful expenditure is incurred of the public money by keeping the man in prison, to say nothing of that of supporting his wife and family while deprived of their bread-winner.

If you take the case of a person against whom, to put it in the least favourable form towards him, there is not sufficient evidence to convict unless something 'turns up,' and you keep him in prison until the grand jury shall sit upon his case, you place the grand jury in the situation of the magistrates who heard the case, and who, although doubtful if there was a *primâ facie* one, were quite prepared to commit the man on the *chance*. He may have had nearly three months' imprisonment, and there is no further evidence against him. The bill is ignored, and the man discharged.

He has thus been wantonly kept in prison, and the grand jury have been uselessly summoned except to insure his discharge—a useful function, no doubt, but one that ought not to have been necessary. Grand juries have been, are sometimes, and may be in the future, useful. They have prevented many a respectable and falsely accused person from being placed on his trial in a public court, where, although innocent, ignominy would have followed him to his life's end. An acquittal before a petty jury is not by any means of the value of a grand jury ignoring a bill. In the former case a technicality or an accident may occasion an acquittal; a doubt, a feeling of commiseration for a wife or family, a dozen other reasons that do not touch the criminality of the accused, may

be instrumental in his acquittal; but when the grand jury ignores a bill, it is that, in point of fact, there is not sufficient evidence against him even to put him on a trial before his country. It is, however, somewhat rare that these occasions arise, but if one should happen once in a dozen years, justice demands that the safeguard of our liberty and innocence should be preserved. And here I leave out all those political considerations which in past times have made the grand jury the only really independent tribunal of the country.

Sometimes a grand jury, like every other human institution, has made a mistake, but the mistake, so far as I can gather from experience and tradition, has never been against the liberty of the subject.

It has happened that this tribunal has blundered by ignoring a bill in which the evidence was clear enough to have warranted them in sending it before a petty jury, and thus preventing a person from being brought to trial.

In dealing with these matters the great thing to be borne in mind is never to incarcerate anybody unnecessarily for the mere purpose of insuring his attendance on a future day to take his trial.

Bail can generally be obtained to a sufficient amount to secure that; and as to the amount, it should always be remembered that for a poor person a very small sum ought to be sufficient—say, for instance, the amount of a week's wages, and even that amount should not be required as a condition precedent, for that might in some cases be equivalent to a refusal to allow bail at all.

indeed, he gave it as his reason, referring to me—

He's had me before; he must not have me now.'

He afterwards repented, and consented to be tried by me, and I gave him six weeks' imprisonment, whereas, had he been sent over to the Quarter Sessions, he would not have been tried until his six weeks had expired.

Another reason for admitting to bail is that a man awaiting his trial is by law obliged to maintain himself and his family during the interval between the arrest and conviction. It enables him to work as a free man, and not as a forced labourer. It gives him the opportunity for showing that in the meantime he is disposed to work and to regain for himself the character he may have forfeited for his crime. This has the effect not only of saving the parochial rates, but also the cost to the public of maintaining him in gaol.

It must be conceded that there are some cases in which bail could not be properly allowed—*e.g.*, where the crime imputed is of gross and serious magnitude. Again, there are some persons who would prefer to be fed at the public expense. I have heard, and quite believe, that one old poacher was in the habit of having his Christmas dinner in Bedford Gaol, and for three consecutive years spent three winter months there, although able to work. For such as these bail might be well required, because it should never be allowed to enable a person to live in voluntary idleness.

Subject to what I have said, bail should always be allowed. There is, however, another reason for

extending, as far as it can safely be done, the jurisdiction of justices to deal with all cases summarily in which, in their opinion, the punishment ought not to exceed four to six months' imprisonment.

It would materially shorten the calendars at Assizes and Quarter Sessions, and naturally reduce the judicial expenditure.

When I first became a Judge, it was not an unusual thing to find at York, Leeds, or other big places, a calendar consisting of 100 prisoners, detaining at the Assize town Judges for many days more than should have been necessary, and it must be remembered that every day saved is worth consideration.

It means a saving of *fifty guineas* a week for the Judge and *fourteen guineas* for his marshal, besides expenses and inconvenience to Sheriff, jurors, barristers and witnesses, etc.

This, however, is foreign to the object I have in view at this moment. I am not intending to discuss or devise a scheme for judicial reforms, to my mind obvious, so far as regards criminal procedure before trial; if, however, I can, in a few words, embody the substance of amendments which, *only speaking for myself*, I think would be very effective improvements, I would suggest the giving jurisdiction to justices and other Judges of the *status* of police magistrates of *every crime* now punishable by indictment, where the crime is of minor importance.

The present police magistrates, who generally are very sound and able men, should have their salaries increased to a reasonable extent, and the duty imposed on them of dealing with such cases as I have

referred to. It is true their number might require to be increased, but the pressure now laid on the puisne Judges would be much lightened.

This observation applies more to country cases where the times for trial are at intervals only, and with considerable periods between them.

I would also like to mention cases where the jury have disagreed, and the nature of the charge is such that the prisoner could not properly be released on bail—*e.g.*, cases of murder.

I never could see any reason why, one jury having disagreed, another should not *forthwith* be summoned, and the trial immediately be recommenced.* It would be fair to the prisoner to do so, and it is due to the public, for the disagreement of the jury has rendered the first trial a nullity.

A long delay is productive of many inconveniences, both in regard to the evidence and otherwise.

These objections might be obviated if the prisoner could be tried without the intervention of a grand jury, although this would require the intervention of the Legislature; and an increase of Judges, though not of the superior courts, would be necessary to a more speedy trial. It is by no means necessary to add to the number of those now occupying the Bench.

But I must remember I am not preparing new forms or a new procedure, but simply looking at, and pointing out, the defects which required amendment in my time.

* There is no reason whatever, except the desire of all officials to leave an Assize town as soon as possible. Whether they leave the accused in prison is no concern of theirs.—R. H.

Much might be done by making more offences triable before inferior tribunals, and enforcing upon them the admission to reasonable bail in the meantime. In another way, by holding more frequent courts for trial of persons charged with heavier offences. I see no real difficulty in this.

But the gravest thing of all is to allow a trial, once begun, to be subject to *no adjournment* until it is disposed of. Through some merely technical difficulty the acquittal of a guilty person may be secured, as in the case I put in these reminiscences before Lord Chief Justice Denman, although that was not a mere technicality, but the temporary absence of a witness.

CHAPTER LXXXI

WHIPPING

My friend Charles Hopwood, Esq., K.C., Recorder of [Liverpool, whose well-known sympathy with human nature is only equalled by his antipathy to the cat, was desirous of knowing what views so eminent an authority as Lord Brampton entertained on the subject of flogging, and on this inquiry his lordship wrote the following :]

I am asked to say a few words upon the subject of whipping and flogging as punishments. I must candidly say I have no affection for either. In truth, I feel that both are unsatisfactory. In my opinion, they do not substantially operate as powerful or permanent deterrents from the crimes for which they are applied, either as respects the criminals themselves, upon whom they are inflicted, or as effective warnings to others minded to commit similar offences. Those who commit serious crime for the sake of plunder are oftentimes in a state of excitement caused by the very violence of the actions they are engaged upon and the expectation of the property they are hoping by violence to obtain from the victim ; or it may be that their crime is committed whilst they are in a state of drunkenness, the most

fertile source of crime, which deprives them of the power of reflection and renders them reckless of the consequences. Moreover, the punishment itself is so degrading and demoralizing that it tends to destroy what little self-respect, if any, is left in them, and renders them more brutal and savage. Besides this, it is a species of torture which humane legislators have been gradually endeavouring to abolish everywhere, and is not *necessary*, for, although here and there a few instances may be pointed to where it is alleged that a good result of its infliction has in a particular locality been coincident with the use of the lash, it by no means follows that the lash alone was the operating cause for the diminution of the crime. I am one of those who by no means admit that it was so.

My chief objection, however, is that the punishment is brutal and degrading to the criminal, and, though perhaps in a less degree, degrading to the officer called upon to inflict it. I know, of course, that the law sanctions the punishment of whipping (see 26 and 27 Vic., c. 44) once, twice or thrice 'subject to certain provisions.' I have nothing, therefore, to say as to the right of any court to inflict such punishment for the offence mentioned, nor do I wish or intend to do so; but I have a right to withhold my approval of such a sentence, and very soon after I became a Judge I abstained from applying it, and in all cases where my attention was attracted to the especial brutality of any particular case I felt it was preferable to inflicting a whipping to add a longer time of imprisonment within the

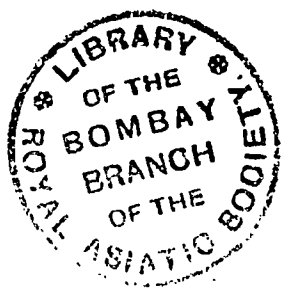
authorized limit, thinking it necessary to protect the public and punish the offender by keeping him incarcerated for a longer period than usually was done where the offender was subject also to a whipping. That I felt to be right and just.

I entirely disapprove, except in cases of grave necessity, of whipping children. Purely parental correction for little faults and delinquencies must, of course, be confided to the parent, to be administered only as the necessity arises for its use; but even then it should be sparingly administered, with tender thought for the youth of the child, and anything approaching to real cruelty should be checked and put down. I do not deal with the discipline which is prescribed and provided under the law for reformatories, etc. But under no circumstances would I allow whipping to be administered by a constable or a warder. The effect of a judicial whipping by an officer of justice lasts throughout a lifetime, for the memory of it can never be wholly effaced; and, being known by ill-natured or thoughtless persons, may be most cruelly used. I remember many years ago a lad being so punished by the order of the magistrates. He grew up to be a well-conducted, respected, and good man, but on his having to appear in a witness-box to give evidence against another, that other, out of spite, tried to injure him by suggesting his old sorrow, which made him shed some bitter tears.

I have had occasion to deal with young criminals who at least ought to have a chance of correcting their ways without the possibility of such malice and distress being incurred. I give one instance only.

A very respectable-looking boy was before me, having pleaded guilty to an indictment for damaging property, for which, to a *grown* man, I should have felt it imperative upon me to award him a few weeks' imprisonment. The boy was in misery at the thought that he might be whipped or sent to prison for a long time. But I was determined to save him if I could, and so I asked if his father or mother were in court. His father, a most decent-looking man, came forward, having come to the Assizes to know his boy's fate. He told me that the boy was ordinarily a good and obedient child, and when asked to explain how he came to commit the offence, could only reply: 'Well, sir, boys will be boys, but I know he meant no harm.' So I called up the kind governor of the gaol and asked him if he could manage to keep the boy for two or three days, quietly, not with the other convict boys, for he might be corrupted by association, but in a private part of the prison. He said that his wife would take charge of him, which, I believe, was done, and the boy in a couple of days was restored to his home. This was a happy experiment, and I have no reason to suppose the boy did not derive from it all the good I had intended for him. Before parting with his father, I begged him, when the lad was released, to give him *advice* kindly, but to say no harsh word to him, and, above all things, not to beat him or lay a finger upon him angrily, for I have ever felt that to ask the father of a boy to punish him would result only in one of these two things: either the boy and his father would treat my injunction as idle, *or* the father might unmercifully beat him,

and probably cause a serious ill-will on the part of the son towards him, a thing to be carefully avoided. I disapprove, therefore, of making a young boy a recipient of judicial whipping if it can be avoided, or of asking the father to act as a minister of the law, the legality of which proceeding I seriously doubt.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CHAPTER LXXXII

SENTENCES

THERE is no part of a Judge's duty which is more important or more difficult than apportioning the punishment to the particular circumstances of a conviction. As an illustration of this statement I would take the offence of bigamy, where in the one case the convicted person would deserve a severe sentence of imprisonment, while in another case he or she might be set at liberty without any punishment at all. Such cases have occurred before me.

The sentence of another Judge upon another prisoner ought not to be followed, for each prisoner should be punished for nothing but the particular crime which he has committed. For this reason the case of each individual should be considered by itself.

I dislike, also, the practice of passing a severe sentence for a trifling offence merely because it has been a common habit in other places or of other persons; for instance, I have known five years of penal servitude imposed for stealing from outside a shop on a second conviction, when one month would have been more than enough on a first conviction, and two or three months on a second con-

viction. For small offences like these the penalty should always be the same in character—I mean a not excessive imprisonment, and never penal servitude. As often as a man steals let him be sent to prison, and it may be for each offence the time of imprisonment should be somewhat slightly increased, but not the character of the punishment.

Years ago, in my Sessions days, I remember a poor and, I am afraid, dishonest client of mine being *transported for life* (on a second conviction for larceny) for stealing *a donkey;* but I doubt if that could happen nowadays. It seems incredible.

Nobody who has carefully noted the innumerable phases of crime which our criminal courts have continually to deal with, and the infinite shades of guilt attached to each of those crimes, will fail to come to the conclusion that one might as well attempt to allocate to its fitting-place each grain of sand, exposed to the currents of a desert and all other disturbing influences, as attempt by any scheme or fixed rule to determine what is the fitting sentence to be endured for every crime which a person can be proved, under any circumstances, to have committed.

The course I adopted in practice was this: My first care was never to pass any sentence inconsistent with any other sentence passed under similar circumstances for another though similar offence. Then I proceeded to fix in my own mind what ought to be the outside sentence that should be awarded for that particular offence had it stood alone; and from that I deducted every circumstance of mitigation, provocation, etc., the balance representing the sentence I finally

awarded, confining it purely to the actual guilt of the prisoner.

I have noticed that burglaries with violence are rarely committed by one man alone, and that when two or more men are concerned in a murder, one or more of them being afraid that someone, in the hope of saving himself from the treachery of others, is anxious to shift the whole guilt of the robbery, with its accompanying violence, on to the shoulders of his comrades. It is well that this should be so, and that such dangerous criminals should distrust with fear and hatred their equally guilty associates.

Except for special peremptory reasons, I never passed sentence until I had reconsidered the case and informed my own mind, to the best of my ability, as to what was the true magnitude and character of the offence I was called upon to punish.

The effect of such deliberation was that I often mitigated the punishment I had intended to inflict, and when I had proposed my sentence I do not remember ever feeling that I had acted excessively or done injustice. I am now quite certain that no sentence can be properly awarded unless after such consideration. I speak, of course, only of serious crimes.

It has more than once happened that even after all the evidence in the case was before the jury, as was supposed, I have discovered that an accused man, in *mitigation of sentence*, has pleaded that which would have been a *perfect defence to the charge made against him!* One of these instances was very remarkable. It happened at some country race-course.

A man was charged with robbing another who was in custody of the police for 'welshing.' The prisoner had undoubtedly, while the prosecutor, as I will call him, was in custody, and being led along the course, rushed up to him, after jumping the barriers, and put his hand in his coat-pocket, pulling out his pocket-book and other articles. He then made off, but was pursued by the police and arrested. He was indicted for the robbery, and the facts were undisputed.

There was no defence set up, and I was about to ask the jury for their opinion on the case, which certainly had a very extraordinary aspect.

Suddenly the prisoner blurted out, as excusing himself:

'Well, sir, *he asked me to take the things.* I was a stranger to him, and the mob was turning his pockets inside out and ill-treating him for welshing.'

I immediately asked the prosecutor, 'Is that true?' and he answered, 'Yes.' The prisoner said, 'I only did it to protect his things for him.'

Of course I instantly stopped the case and directed an acquittal. I then gave both parties a little advice. To the prosecutor (the welsher) I said: 'Don't go welshing any more;' and to the prisoner: 'If you ever again see a welsher in distress, don't help him.'

I should like to say one word more. It should not be supposed that a man, when sentenced, is altogether bad because he uses insulting language to the Judge. He may not be utterly bad and past all hope of redemption on that account.

The want of even an approach to uniformity in

criminal sentences is no doubt a very serious matter, and is due, not to any defect in the criminal law (much as I think that might be improved in many respects), but is owing to the great diversity of opinion, and therefore of action, which not unnaturally exists among criminal Judges, from the highest to the humblest, numbering, as they do, at least 5,000 personages, including Judges of the High Courts, commissioners, recorders, police magistrates, and justices of the peace.

When one considers the conditions under which the criminal law is administered in England, and remembers that no fixed principles upon which punishments should be awarded have been authoritatively laid down, and that the law has stated only a maximum (but happily at the present time not a minimum), and each Judge is left practically at liberty to exercise his own unfettered discretion so long as he confines himself within the limit so prescribed, it is no matter for wonder that so great a diversity of punishment should follow so great a variety of opinion.

Even in the most accurate and useful books of practice to which all look for guidance and assistance during every stage of the criminal proceedings, down to the conviction of the offender, no serious attempt has been made to deal, even in the most general way, with the mode in which the appropriate sentence should be arrived at.

The result of this state of things is extremely unsatisfactory, and the most glaring irregularities, diversity and variety of sentences, are daily brought

to our notice, the same offence committed under similar circumstances being visited by one Judge with a long term of penal servitude, by another with simple imprisonment, with nothing appreciable to account for the difference.

In one or the other of these sentences discretion must have been erroneously exercised. I have seen such diversity even between Judges of profound learning in the law who might not unreasonably, *primâ facie*, be pointed to as safe examples to be followed; and so they were, so far as regarded their legal utterances. Experience, however, has told us that the profoundest lawyers are not always the best administrators of the criminal law.

Practically there are now no criminal offences which can be visited with the penalty of death. Treason and murder still remain. For the latter offence the Judge is *bound to pronounce sentence of death*, which is imperatively fixed and ordained by Act of Parliament, and any other sentence would be illegal.

There are certain principles which I consider ought never to be lost sight of.

In the first place, it must be remembered that for mere immorality, not made criminal by the common or statute law of the land, no punishment can be legally inflicted, and, in my opinion, no crime ought to be visited with a heavier punishment merely because it is also against the laws of God.

Take, for example, the crime of unlawfully knowing a girl under the age of sixteen years, even with consent. Assume that with her invitation the man committed himself. Go further, and establish the sin

of incest. The latter sin ought to be *totally ignored* in dealing with the *statutory* offence.

I must not, however, be understood as intending my observations to apply to cases where the immorality is in itself an *element* of the crime. My view is that the rule ought to apply only in cases where the immorality is only a sin against God, and is severable from the *crime* committed against the laws of the land.

The case I have suggested is an illustration of what I mean.

Secondly, a sentence ought never to be so severe as to create in the mind of reasonable persons, having knowledge of the circumstances, a sympathy with the criminal, for that tends to bring the administration of the law into discredit, and, while giving a Judge credit for having acted with the strictest sense of justice, it might give rise to a suspicion of his fitness and qualifications for the administration of the criminal law—a state of things which ought to be avoided.

The same observations apply, but not with equal force, to sentences which may to reasonable persons acquainted with all the circumstances appear to be ridiculously light, for it is more consistent with our laws to err on the side of mercy than on the side of severity.

The object of criminal sentences is to compel the observance by all persons, high and low, rich and poor, of those public rights and privileges, both as regards the persons and property common to all their fellow-subjects, the infringement of which is made criminal.

For the infringement of other rights of a private character the law has provided civil remedies with which we are not at this moment concerned.

Punishments, then, should be administered only as a necessary sequence to the breach of a *criminal* law, with the object of deterring the offender from repeating his offence.

Of necessity it operates to some extent as a warning to others; but that is not its primary object, for no punishment ought to exceed in severity that which is due to the particular offence to which it is applied. To add to a sentence for a very venial offence for which a nominal punishment ought to suffice an extra fine or term of imprisonment by way of example or warning to others would be unreasonable and unjust. Vengeance, or the infliction of unnecessary pain, especially for the sake of others, should never form part of a criminal sentence.

Reformation of the criminal by and during his imprisonment should be one chief object of his punishment, but a just sentence for the offence is not to be prolonged either for education or reformation, unless expressly sanctioned by law, as in the case of reformatories.

With regard to crimes of violence, it sometimes happens that long periods of restraint and imprisonment are imperative—where, for instance, the criminal is persistent in his threats, or has made it evident by his actions or words that on his liberation from imprisonment for one crime of violence he intends to resume his criminal course, and will do so unless restrained.

Take, for instance, the case of a persistent burglar, the great majority of whose robberies are committed under circumstances calculated to create terror and alarm, and upon whom imprisonment, however long, has no restraining effect after his liberation. Take the confirmed highway robber, who to secure his booty does not scruple to use deadly violence upon his victim. It is rare that one short term of imprisonment, or the fear of another, induces him to abandon his criminal course. In such cases it is essential for the protection of the public that he should no longer be at liberty to pursue his dangerous and alarming course of life. For him, therefore, a much longer term of restraint is necessary than in the case of mere pilferers, whose thefts, although causing loss and vexation, are not productive of personal injury.

Lastly, I am strongly averse from abolishing the sentence of death in cases of deliberate murder. Even when the crime is committed under the influence of jealousy, I should take little pains to save the life of one who had cruelly and deliberately murdered another for the gratification of revenge or the purposes of robbery.

In the case of poor creatures who make away with their illegitimate offspring in the agony of their trouble and shame, there were, in my experience, almost always to be found very strong reasons for commutation, even to very limited periods of imprisonment.

CHAPTER LXXXIII

CARDINAL MANNING

CARDINAL MANNING was a real and good friend to me, and I often spent an hour with him on a Sunday morning or afternoon discussing general topics. At my request, when I had no thought of being converted to his Church, he marked in a book of prayers which he gave me several of his own selections, which I have carefully preserved; but I can truly say he never uttered one word, or made the least attempt, to proselytize me. He left me to my own free, uncontrolled and uncontrollable action. My reception into the Church of Rome was purely of my own free choice and will, and according to the exercise of my own judgment. I thought for myself, and acted for myself, or I should not have acted at all.

I have always been, and *am*, satisfied that I was right.

It was Cardinal Vaughan who received me into the Church after the death of my dear friend Cardinal Manning, which was a great shock to me. It was announced on the very morning of my hearing of the death of an illustrious Prince, whom I

reverenced and loved, His Royal Highness the Duke of Clarence. This also gave me a great shock.

As to Cardinal Manning, his extreme good sense and toleration were my admiration at all times, and I shall venerate his memory as long as I live. His kindness was unbounded.

CHAPTER LXXXIV

'OUR CHAPEL'

WHEN the late Cardinal Vaughan was showing Lady Brampton and myself over that beautiful structure, the New Cathedral, I thought I should like to erect a memorial chapel, and made a proposal to that effect. My offer being accepted, I resolved to build it, after consultation with Lady Brampton, and to dedicate it to St. Gregory and St. Augustine. It was afterwards called Our Chapel.

The stonework was accordingly proceeded with, and afterwards the plans for decoration were submitted to the Archbishop and myself. For these decorations I subscribed a portion. The rest of the work was our own, and we have the satisfaction of feeling that Our Chapel is erected to the honour and glory of God.

The style of decoration adopted is Byzantine. The walls are embellished with many and various beautiful marbles. The eastern side has a representation of Pope Gregory sending St. Augustine with his followers to preach the Gospel in England. Another scene is St. Augustine's reception by

King Ethelbert and Queen Bertha in the Isle of Thanet.

The panels of the reredos contain pictures of St. Gregory and St. Augustine, with their four contemporaries, St. Paulinus, St. Justus (Bishop of Rochester), St. Laurentius and St. Mellitus (Bishop of London).

On the north are figures of St. Edmund, St. Osbald, and the Venerable Bede; while opposite are St. Wilfred, St. Cuthbert, and St. Benedict.

On the west are St. John the Baptist and St. Augustine, and below these, figures of women pouring water from pitchers, symbolical of the river Jordan.

Under the arch of this side are most artistically designed panels containing the names of the four rivers of Paradise.

The floor is inlaid, and the windows, which are of opalescent glass, throw over the structure a soft white light, admitting of the perfect harmony of colours which everywhere adorn this very beautiful chapel.

. . . . . .

Almost all whose names I have mentioned in these reminiscences are gone. There are many others equally dear about whom I cannot for want of time and space write here; most of them have also passed away.

They can no longer sing the old songs, or tell the old tales, but their memory remains, and the pleasant melody of their lives. I enjoy their companionship now in the quietude of my home, and their memory

brightens even the sweet twilight of the evening hours. But it all reminds me that the signal has been given to ring the curtain down.

I therefore make a last and momentary appearance in the closing drama, only to bid all and everyone with whom I have been associated in times past and in times recent, as the curtain falls,

AN AFFECTIONATE FAREWELL.

APPENDIX

THE following are among the letters received by me in connection with my retirement from the Bench:

39, RUTLAND GATE, S.W.,
December 20, 1898.

DEAR JUDGE,

If the announcement in the *Telegraph* is true, I feel a very sincere grief at the knowledge that I will not again have the good fortune of again appearing in court before you. You have been so kind and encouraging to me since I became an exile from Erin that the loss to myself personally will be a great one.

May you happily enjoy your well-deserved leisure for many years is the very sincere desire of

Yours sincerely,
(*Signed*) EDWARD CARSON.

3, TEMPLE GARDENS,
TEMPLE,
December 20, 1898.

DEAR SIR HENRY,

I trust that for many years you may enjoy the peace and good health in your retirement which you have so well earned, and which you so richly deserve. We shall all miss you very much. Although I have in the course of the many years I practised before you occasionally differed from you, I always felt that I was before a great master of his business, who, whatever my view might be, was almost certainly right. . . .

I should like to add that there is nothing in your judicial career which has more commanded my respect than the scrupulous care and consideration which you have always given to your sentences. This I have always been impressed with, as, in my opinion, a hasty, ill-considered sentence is little short of a crime in itself.

Accept, my dear Judge, my very best wishes for your happiness in the future, and

Believe me,

Sincerely yours,

(*Signed*) CHAS. F. GILL.

2, PUMP COURT,
TEMPLE, E.C.,
December 21, 1898.

DEAR SIR HENRY,

It is difficult to me to realize that you are quitting professional life. During all my career at the Bar you have filled so large a space that you leave a gap which for me none can fill.

I look back to many kind words from a great leader to a young beginner, and then to unfailing courtesy and consideration during your long career on the Bench.

You will enjoy your leisure; long may you be spared to feel the relief after so many years of incessant work!

Believe me always,

Most truly yours,

(*Signed*) RICHARD E. WEBSTER.

THE HON. SIR HENRY HAWKINS.

ELY PLACE,
HOLBORN, E.C.,
LONDON,
December 21, 1898.

MY DEAR SIR HENRY,

May I be permitted to congratulate you upon the great name you have earned as a great and just Judge, and who now retires from his duties amidst the

regret, not only of the profession, but of all classes of the community. I hope you may live long to enjoy your well-merited rest. I yield to no one in my admiration of your career.

Always sincerely,
(*Signed*) GEORGE M. LEWIS

SIR HENRY HAWKINS.

16, BUCKINGHAM STREET,
STRAND, W.C.,
December 22, 1898.

MY DEAR SIR HENRY,

Though I know that you do not, as a rule, take much heed of what people say of you, I think you must be gratified by the universal recognition called forth by your retirement, and the tributes from all sides to your great services and your unique position on the Bench. Your resignation is an event to the public at large, such as that of no other Judge could be. We of your kindred, anyhow, are pleased and proud when we read, and you must let your old marshal congratulate you on such a triumphant close to your labours on the Bench. You have done such work of late that I feel happy in being able to hope that you have taken this step from no feeling of weariness, but only in order to enjoy some years of leisure; may they be many and happy!

With kindest remembrances to Lady Hawkins, and to yourself all good wishes, and many thanks for much pleasant *quasi-judicial* experience,

Your affectionate cousin,
(*Signed*) ANTHONY H. HAWKINS.

46, QUEEN'S GATE GARDENS, S.W.,
December 23, 1898.

MY DEAR HAWKINS,

Your retirement would at any period have been a blow to the Bench, but there never was a time when your loss would be more felt than now. With you

gone, and . . ., the Judges are only too likely to be reminded how much in recent times we have been let down in the estimation and confidence of the public.

It will always be a pleasure to me to remember the help you have given in securing a merciful administration of the criminal law, and in showing that the interests of the community may be adequately protected without forgetting the poor devil in the dock.

Your old friends have long felt that you should be invited to adorn another place, and I look forward to an early opportunity of offering you my congratulations and good wishes.

Believe me,
Very sincerely yours,
(*Signed*) J. C. MATHEW.

THE HON. SIR HENRY HAWKINS.

CHELSEA COURT,
CHELSEA EMBANKMENT, S.W.,
December 24, 1898.

MY DEAR HAWKINS,

You took us all by surprise. No one of us had the slightest idea of your intentions till we read in the *D. T.* that it was an accomplished fact, and that we were to miss your familiar face and figure in the R.C. of J.

I hope you may still turn up now and again in the Common Room, though its attractions in the culinary line never seemed to appeal to your sympathies.

I am sorry you have not given us the opportunity of saying farewell to you as a Judge, and testifying in a body our united regrets and our best wishes for years and years yet to come of intellectual vigour and physical enjoyment. But I cannot refrain from my personal expression of regret that we are likely to meet but seldom, and my assurance of grateful recollection of many kindnesses shown to me before I became a Judge, and of a constant confidence and goodwill shown to me since my appointment. If I say little of your judicial

performances, it is because they need no expressions from those who can only know them at second-hand and from the papers. I always think that we are, *ex necessitate*, the most incompetent judges of one another's performances, because, except *in banc* and in the C. for C.C.R., we never hear them; and those remarkable displays of memory, of analysis and synthesis, of power of grasping and dealing with the most intricate congeries of facts with which you have for generations to come associated your name, we, of course, have never been able to enjoy. Your judgments in C.C.R. I have heard and on some vexed and intricate points, and I think we have always agreed upon them, and I know that their research and lucidity have always commanded my admiration. And now that you have served 'time and half-time,' I congratulate you on the prospect of greater freedom and less responsibility. . . . As I have envied your splendid gifts, that envy is tempered with goodwill and kindly thoughts. I give you joy of your liberty, and wish you all health, strength, and prosperity to make the most of it; and with every kind thought and good wish take a friendly and sympathetic leave of you as a colleague, and wish 'a merry Christmas and a happy new year,' as my lips ask you to believe me,

Very faithfully yours,
(*Signed*) ALFRED WILLS.

HATFIELD HOUSE,
HATFIELD, HERTS,
December 26, 1898.

DEAR SIR,

I have much pleasure in informing you that Her Majesty has graciously declared her intention of conferring a peerage upon you on the occasion of your retirement from the Judicial Bench, which you have so greatly adorned. Believe me,

Yours faithfully,
(*Signed*) SALISBURY.

THE HON. SIR HENRY HAWKINS.

GOODWOOD,
CHICHESTER,
December 28, 1898.

MY DEAR SIR HENRY,

At the risk of being thought a bore, I must write a line on the occasion of the country losing the services of one of the best Judges. The manner in which you have carried out the duties of your high office is deserving the gratitude of all classes.

I trust you may live many years to enjoy your well-earned retirement.

I am glad to see that the press recognises the value of your services.

Believe me,
Yours very truly,
(*Signed*) RICHMOND AND GORDON.

TO SIR HENRY HAWKINS.

20, NORFOLK STREET,
PARK LANE, W.,
February, 1, 1899.

MY DEAR BRAMPTON,

That sounds well, and looks well. I was delighted to see it in the *Gazette*. May your dear wife and you know every happiness under your new name and state. Pray give my affectionate regards to her ladyship, and believe me to be,

Ever yours,
(*Signed*) EDWARD LAWSON.

SALT HILL,
CHICHESTER,
December 30, 1898.

MY DEAR HAWKINS,

I did not write to you before because I knew of the plethora of letters you would be having, so I just waited until the glut was over.

I cannot tell you how sorry I am to think that you have left us; it is an enormous loss to us Judges, for there are very few left now to train up the young ones in the way they should go.

I was very pleased to read the rub you gave for ostentatiously giving a man a sentence for an offence he had never been convicted of—what next?—but I am very sorry that he and others are laying themselves open to criticisms in the press. It plays the mischief with our office.

I hope we shall meet sometimes. I wish you every health and happiness to enjoy your well-earned rest, and

Believe me,

Yours ever truly,

(*Signed*) A. L. SMITH.

THE LODGE,
EAST CARLTON,
NEAR NORWICH.

MY DEAR HAWKINS,

I cannot let you depart from among us without an expression of regret. You will be much missed, and although we have not seen each other very often of late, the old associations have been preserved by the consciousness of common interests and obligations incident to our membership of a great judicial body.

May your future be happy and free from the infirmities of age! You will, I hope, see us sometimes, if not at the old quarters, yet occasionally at the Athenæum.

I shall miss your judgments, for they were always those of a master, and I always studied them with care. The betting case is the only one I remember in which I thought you were wrong.

God bless you!

Yours very sincerely,

(*Signed*) NATHL. LINDLEY.

HOVETON HOUSE,
NORWICH,
December 30, 1898.

DEAR SIR HENRY,

You must be overwhelmed with letters on your retirement from the Bench, and it is with some hesitation I venture to trouble you with yet another. However, I feel that I cannot let the occasion pass without writing to you one word of thanks for the many, many acts of kindness you have shown me. It was always a great delight to me to know you were coming our circuit, and I cannot help feeling akin to bereavement when I reflect that we can't see you as our Judge again. . . . Though you will not, as in the past, have the pleasure of dissecting a witness or exposing a fraud, you certainly will not leave behind you anyone from whom the Bar can learn so much.

Believe me,
Very truly yours,
(*Signed*) T. L. BLOFELD.

SOLICITOR'S DEPARTMENT,
TREASURY,
January 2, 1899.

DEAR SIR HENRY,

I should have written before this to thank you both in my own name and that of my officers for the very kind expressions you used about me and about them, but I felt sure that such public services as yours could not fail to receive recognition at the hands of Her Majesty, and so reserved my letter in confident assurance that when I wrote I should be able to tender you my sincere and respectful congratulations on an honour which not only those who know you, but the public generally will appreciate as honourable both to the giver and the receiver. With regard to what you say about us—although, no doubt, performance has not always come up to intention—it is very satisfactory to

me to think that you appreciated the desire we all share here to facilitate the course of and to further the interests of justice. Mistakes there must be, judgment cannot always be sound; but I do not think our record has been a bad one, and for this I am indebted not only to my own officers, but to those who have represented me at the Bar. And, as you know, on more than one occasion I have received most notable sympathy and counsel from yourself (*e.g.*, in the baby-farming case). I sincerely trust that you may have many years enjoyment of your honours, and that our official farewell may be far from being a real farewell in any sense.

Yours obediently,
(*Signed*) DESART.

3, MELBURY ROAD,
KENSINGTON, W.,
January 3, 1899.

DEAR SIR HENRY HAWKINS,

* * * * *

I have known what it is to have you 'against me'—very much against me sometimes—but I have also felt the compensating gratification of having you 'with me,' particularly at one memorable trial, which I shall ever remember and associate with your presence. Whether you have been with or against me, the reflection of cool moments has always satisfied me that your judgment in reference to the issues of the case was founded on a deep knowledge of men, and a just sense of the comparative weight of evidence and argument. I have rested content that the Judge's view was better than that of the advocate.

I hope you will allow me to say this, and to trust that you will have in your retirement much happiness and health, and length of days.

Yours with great respect and attachment,
(*Signed*) J. LAWSON WALTON.

32, De Vere Gardens,
January 3, 1899.

My dear Sir Henry,

I am almost sorry to have to use that familiar expression for the last time. I was travelling all yesterday, or I should have written then to offer you my very heartiest congratulations on your unusually well-earned dignity.

You have certainly done all that could be done to set an example of how prisoners ought to be tried, which as long as I hold my present office I cannot help regarding as the most essentially important part of the duties of a Judge. And though everyone interested in that topic must regret that you will not continue realizing the ideal, there is some consolation in the knowledge that you will be able to give the House of Lords the benefit of your assistance in what I suppose is the next most important thing.

* * * * *

(*Signed*) Herbert Stephen.

Spiddal,
Co. Galway,
January 3, 1899.

Dear Sir Henry Hawkins,

I read to-day in *The Times* of yesterday of your well-deserved peerage—one which enlists unusual approval. Allow me to congratulate you. I hope we may both sit for some years together in the Lords.

Very truly yours,
(*Signed*) Morris.

6, Ennismore Gardens,
London,
January 4, 1899.

My dear Lord,

I must write to express to you my great pleasure at the most well-earned mark of acknowledged success you have received. It is pleasant because it is a public

acknowledgment, and certainly it has been well earned by good, hard earnest work, done in the highest form, with the greatest talent.

Believe me,
Yours very truly,
(*Signed*) ESHER.

LA BASTIDE,
BEAULIEU,
ALPES MARITIMES,
January 4, 1899.

DEAR SIR HENRY HAWKINS,

Very many thanks to you for your kind note. It adds one more to the many kindnesses which you have done to me.

May I venture to offer my warmest congratulations to you on the honour Her Majesty has seen fit to grant you. In this, as in so many other instances, she has but given expression to the public opinion of her subjects.

Believe me,
Yours very truly,
(*Signed*) ROBERT CECIL.

January 7, 1899.

MY DEAR SIR HENRY,

My sincere congratulations upon your new honours; long may you enjoy them! And may I say how glad I was to see that you would give no encouragement to farewell scenes upon the Bench. They were becoming a sham, and it was very desirable that some eminent Judge should decline the compliment.

Yours very truly,
(*Signed*) W. C. GULLY.

HEYWOOD,
WESTBURY,
WILTS,
January 7, 1899.

MY DEAR HAWKINS,

No one among your very numerous friends will more warmly congratulate you in what I read in to-day's *Times* than I do.

It affords me real and unqualified pleasure; and do offer her ladyship from all of us our warm congratulations.

Yours most sincerely,
(*Signed*) LUDLOW.

25, COLLINGHAM GARDENS, S.W.,
January 8, 1899.

MY DEAR HAWKINS,

I hasten to send you my very heartiest congratulations upon your acquiring yet fresher judicial and social distinction. That you should at the close of your very long and most distinguished career at the Bar and on the Bench receive a very special tribute of the gratitude of the Crown and of the common applause of the whole people is only what you deserve; and you have received your high honours with applause at once impartial and *quite unanimous*, and proceeding from all sorts and conditions of men, among whom are to be counted all your surviving friends, acquaintances, and colleagues, among whom, let me assure you, that I, who have so long known and valued you on the Home Circuit and in the ranks of the—our—old profession *passim*, and who am so deeply and so gratefully indebted for so many and such great favours during my longish career, desire ever to be reckoned as your very sincere and attached friend,

(*Signed*) JOHN C. DAY.

P.S.—Permit me to present through you my most respectful compliments and humble congratulations to the Lady Hawkins, who has, I trust, by this time completely recovered from her late indisposition.

1, BRICK COURT,
TEMPLE, E.C.,
January 18, 1899.

DEAR SIR HENRY,

Please excuse my addressing you by your old title for the last time.

I had intended to attend the proposed formal fare-

well, but hearing that this had been abandoned at your desire, I have no way of showing my respect except by troubling you with these few lines.

After having experienced during many years nothing but courtesy and kindness from you, I shall much miss your presence, especially on circuit. It was always a pleasure to practise in your court, not only because everyone was allowed a fair hearing, but because something could ever be learnt from the manner in which you tried the cases. Your prominent ability and unmatched experience shone most in difficult and complicated matters, but were ever visible even in the everyday and trifling cases.

I owe much to you for the many opportunities of learning how to do work, and also for the many kindnesses you have shown me. I desire to express my thanks, and to wish you many years of life and health in which to enjoy your well-earned leisure.

Might I ask you to kindly remember me to Lady Hawkins?

Yours sincerely,
(*Signed*) SAMUEL H. DAY.

38, BERKELEY SQUARE, W.,
February 1, 1899.

MY DEAR LORD BRAMPTON,

I have been waiting to learn your authentic title before sending you my congratulations, which I do most sincerely. If hard, honest work earns a peerage (as to which I know nothing), none is better deserved than yours.

Yours sincerely,
(*Signed*) ROSEBERY.

ROYAL COURTS OF JUSTICE,
February 3, 1899.

MY DEAR LORD BRAMPTON,

I shall be proud to act as one of your introducers. You will let me know, in good time, whether the ceremony will be on Tuesday, and at what hour I ought to

be in attendance; the officials will, I presume, as usual, provide the needful robes.

I agree that Lord Hawkins is less euphonious than Lord Brampton (which sounds very well), but I confess to a feeling of regret that the name by which you were so widely known and with which you achieved your great reputation, should drop out of sight.

I hope my lady is better; my wife was disappointed not to see her when she lately called.

Yours, my dear Lord Brampton,
Always truly,
(*Signed*) RUSSELL OF KILLOWEN.

HEYWOOD,
WESTBURY,
WILTS,
February 11, 1899.

MY DEAR BRAMPTON,

I like the name much. I am very pleased to think that I am to be one of your introducers.

I come to London on Monday, and will direct my peer's robes to be in attendance at the House of Lords on Tuesday at such time as you shall advise me of.

Always most sincerely yours,
(*Signed*) LUDLOW.

There is one letter from which I can but make an extract or two; it is from Mr. H. Bernard Wilson and Mr. W. Doveton Smyth, of Lincolnshire, and gave me great pleasure and satisfaction as coming from the solicitor's branch of the profession:

'It was with regret, yet at the same time not with surprise, that we read of your lordship's retirement from the Bench after your long and brilliant occupation of the same.

'Both old and young advocates and solicitors will look back with the greatest pride to the many occa-

sions when they were encouraged by the kindly and assuring remarks which fell from your lordship's lips. . . .

'It is such characteristics as your lordship possesses, and in the past displayed as a Judge, more especially with criminals, that make one and all respect the English law and those who, like yourself, are appointed to administer it.'

With the following extract I conclude this chapter of my life:

'This is the Salutation of Friendship!

'Well, you have the satisfaction of knowing that you climbed the ladder from the lowest rung to the highest *without the help of anyone.*

'The game you had to play you have played, and won it off your own bat. Many there were who tried to stump you, or bowl you out, but they were not in the game with you."

'*February* 28, 1899.'

This salutation needs no signature.

THE END

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